FEDERAL REGISTER

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TITLE 7—AGRICULTURE

Chapter XI—Production and Marketing Administration (War Food Distribution Orders)

PART 1596—FOOD IMPORTS

STATEMENT OF POLICY RE ISSUANCE OF IMPORT AUTHORIZATIONS FOR BABASSU KERNELS AND BABASSU OIL FROM BRAZIL

Pursuant to the authority vested in me under the provisions of War Food Order No. 65, as amended (12 F. R. 459) and in order to assure equitable distribution of available supplies of imported Babassu kernels and Babassu oil, it is hereby declared to be the policy of the United States Department of Agriculture to issue or deny the issuance of import authorizations for Babassu kernels and Babassu oil from Brazil under said War Food Order No. 63 as provided herein.

§ 1596.6 *Statement of policy re issuance of import authorizations for Babassu kernels and Babassu oil from Brazil under War Food Order No. 63*—(a) *Conditions of issuance.* An initial authorization to import Babassu kernels or Babassu oil, or both, from Brazil for domestic consumption, will be granted, within the limits of the 1947 allocations to the United States by the International Emergency Food Council, to any person, upon application, in any amount not in excess of 250 tons. Second and subsequent authorizations not in excess of 250 tons each will be granted to any person to import Babassu kernels or Babassu oil, or both, from Brazil for domestic consumption, within the limits of the 1947 allocations to the United States by the International Emergency Food Council, if such person makes application therefor and presents to the Administrator of War Food Order No. 63 satisfactory evidence that the quantity of Babassu kernels and Babassu oil covered by the preceding authorization granted to him has been purchased for importation in accordance with such authorization.

(b) *Procedure.* Applications for import authorizations under this section for Babassu kernels or Babassu oil, or both, may be made by properly executing and filing with the Administrator of War Food Order No. 63, Production and Marketing Administration, United States Department of Agriculture, Washington 25, D. C., Form WFO 63-2, obtainable from said Order Administrator.

(c) *Petition for relief from hardship.* Any person who considers that the policy and procedure set forth in this section work an exceptional or unreasonable hardship on him may file a petition for relief with the Administrator of War Food Order No. 63, Production and Marketing Administration, United States Department of Agriculture, Washington 25, D. C. Petitions shall be in writing and shall set forth all pertinent facts and the nature of the relief sought. The Order Administrator may take any lawful action with reference to such petitions which is consistent with the authority delegated to him by the Administrator of the Production and Marketing Administration, United States Department of Agriculture. If the petitioner is dissatisfied with the action taken by the Order Administrator, he may, by request addressed to the Order Administrator, obtain a review of such action by the Administrator of the Production and Marketing Administration. After said review, the Administrator may take such lawful action as he deems appropriate, which action shall be final.

(d) *Effective date.* The policy and procedure set forth in this section shall be effective upon publication hereof in the FEDERAL REGISTER.

(Secs. 301 and 1501, 56 Stat. 177 and 187, as amended, 50 U. S. C. App. Supp. 633 and 645; E. O. 9280, Dec. 5, 1942, 3 CFR Cum. Supp., E. O. 9577, June 29, 1945, 3 CFR 1945 Supp., W. F. O. 63, 12 F. R. 459)

Issued this 22d day of May 1947.

[SEAL] RALPH S. TRIGG,
Deputy Administrator.

[F. R. Doc. 47-4975; Filed, May 26, 1947; 8:53 a. m.]

CONTENTS

FEDERAL REGISTER

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CONTENTS—Continued

CODIFICATION GUIDE

A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such in parentheses.

CODIFICATION GUIDE—Con.

TITLE 15—COMMERCE

Chapter I—Bureau of the Census, Department of Commerce

[Foreign Commerce Statistical Decision 60]

PART 30—FOREIGN TRADE STATISTICS

BOND TO PRODUCE COMPLETE CARGO MANIFEST AND EXPORT DECLARATIONS AFTER CLEARANCE OF VESSEL REINSTITUTED; DUPLICATE COPIES OF EXPORT DECLARATIONS TO BE FILED FOR VESSEL SHIPMENTS

1. Section 30.30 (a) is amended to read as follows:

§ 30.30 *Manifests of vessels; Shipper's Export Declarations; clearance.* (a) Before clearance shall be granted to any vessel bound to a foreign place or noncontiguous territory of the United States, the master shall file a manifest with the Collector of Customs on Customs Form 1374 of all cargo on board his vessel. There shall also be filed with the Collector declarations of the owners, shippers, or consignors of the cargo shipped by them, specifying the kinds,

quantities, values, and the places to which ultimately destined. These declarations will be made in duplicate on Commerce Form 7525 in accordance with the instructions printed thereon, and the original copy of every declaration shall be verified by oath before a customs officer, notary public, or other authorized person. The oath is not required on Shipper's Export Declarations covering shipments made between the United States and its territories and possessions.

2. Section 30.31 is amended to read as follows:

§ 30.31 *Clearance on incomplete manifest under bond.* Clearance may be granted on incomplete cargo manifest and before all Shipper's Export Declarations have been filed, upon the application to the Collector of Customs on Customs Form 7301 and the execution of the bond printed thereon. The condition of the bond is that a complete outward manifest of all cargo laden on board the vessel, together with all the export declarations covering all cargo, shall be filed with the Collector of Customs not later than the fourth business day (T. D. 51504) after clearance of the vessel. If required by the Collector, pro forma declarations on Customs Form 7303 must be filed enumerating shipments for which declarations are missing.

3. Paragraphs (a) (c) and (e) of § 30.42 are amended to read as follows:

§ 30.42 *Shipments from the interior for export; shipments or declarations originating at a port of exportation.* (a) For goods shipped on a through export bill of lading from an interior point to a foreign country or to a noncontiguous territory of the United States, the shipper must prepare and deliver to the carrier the export declaration in duplicate to accompany the waybill to the seaport, airport, or border port of exportation.

* * * * *

(c) Upon arrival of the goods at the seaboard, or airport, the carrier will deliver two copies of the Shipper's Export Declaration to the Collector of Customs who will retain the original, certify and deliver the duplicate to the party designated to attend to the exportation, to be delivered to the exporting vessel or aircraft as a permit to export and evidence that the original Shipper's Export Declaration has been filed with the Collector.

* * * * *

(e) If the shipment originates or the Shipper's Export Declaration is prepared at the port of exportation, the shipper must deliver the declaration in duplicate to the Collector of Customs. Collectors shall retain the original and indicate on the duplicate copy, which is for presentation by the shipper to the transportation company to be attached to the outward vessel, aircraft, or car manifest, that it has been verified as a copy of the declaration retained by the Collector. This duplicate copy when returned to the Collector shall be forwarded by the Collector to the Customs Statistics Section, Foreign Trade Division, Bureau of the Census, Customhouse, New York 4; New York.

4. Section 30.43 is amended to read as follows:

§ 30.43 *Divided shipments.* If a shipment is divided at the port of exit by accident or intention, part being exported in one vessel, airplane, or car and part in another, the agent of the carrier will note the amount shipped on the declaration attached to the vessel, air, or car manifest. Declarations covering subsequent shipments must be prepared by the carrier's agent in duplicate from records of the previous shipment and be presented to the Collector when the remainder is shipped. The number of the original declaration must be noted on the original and duplicate copy of the declaration covering the remainder of the shipment.

5. Section 30.44 is amended to read as follows:

§ 30.44 *Exportations from Alaska, Hawaii, and Puerto Rico via the United States.* Shipper's Export Declarations in duplicate must accompany merchandise shipped from Alaska, Hawaii, and Puerto Rico for transshipment and exportation from a port in the United States and be delivered by the shipping agent to the Collector of Customs at such port of exportation, with the name of the exporting vessel noted thereon.

This decision is effective immediately, and Foreign Commerce Statistical Decisions 2, 3, 6, 9, 33, 36 and 46 are accordingly amended.

(R. S. 161, sec. 4, 32 Stat. 826; 5 U. S. C. 22, 601)

J. C. CAPT,
Director.

Approved:

W. A. HARRIMAN,
Secretary of Commerce.

[F. R. Doc. 47-4948; Filed, May 26, 1947; 9:25 a. m.]

TITLE 24—HOUSING CREDIT

Chapter VIII—Office of Housing Expediter

[Priorities Reg. 28, as Amended May 9, 1947, Direction 26]

PART 803—PRIORITIES REGULATIONS UNDER VETERANS' EMERGENCY HOUSING ACT OF 1946

USE OF MATERIALS AND EQUIPMENT OBTAINED WITH CC RATINGS

The following amended direction is issued pursuant to Priorities Regulation 28:

(a) *What this direction does.* Priorities Regulation 28 and Direction 18 to PR-28 formerly provided for the issuance of CC ratings to obtain materials and equipment required by manufacturers of critical building products, and by certain other persons. Issuance of CC ratings was discontinued at the end of the 1st quarter of 1947.

Materials and equipment obtained with CC priorities assistance were required to be used if possible for the production of the specific item or items for which the assistance was granted. This direction provides that if it becomes impossible for a building product manufacturer who obtained materials and equipment with CC priorities assistance to use the materials and equipment in the kind of production for which the assistance was given, he may use them instead for the production of any of the housing items listed on Schedule A to PR-33. If even this use is impossible for the manufacturer, he may appeal for relief in accordance with the Appeals Order.

(b) *Use of materials or equipment obtained with CC ratings.* Materials and equipment obtained with CC priorities assistance under Priorities Regulation 28 or Direction 18 to PR-28 by producers of building products must be used if possible for the production of the specific item or items for which the priorities assistance was granted. If this becomes impossible, such materials or equipment may be used for the production of any of the items listed on Schedule A to PR-33. (12 F. R. 2118)

(c) *Appeals.* Any person who is unable to comply with the provisions of paragraph (b) of this direction may appeal for relief in accordance with the Housing Expediter Appeals Order. (12 F. R. 2121)

(60 Stat. 207; 50 U. S. C. App. Sup. 1821)

Issued this 23d day of May 1947.

OFFICE OF THE HOUSING EXPEDITER,
By JAMES V. SARCONE,
Authorizing Officer.

[F. R. Doc. 47-5005; Filed, May 23, 1947; 12:16 p. m.]

[Suspension Order S-29]

PART 807—SUSPENSION ORDERS

ELMER W. MOTTERN

Elmer W. Mottern, 702 Trail Avenue, Frederick, Maryland, on March 21, 1947, filed with the Federal Housing Administration, application Form OHE 14-56 for authorization to construct a single-person dwelling, located at 28 Rosemont Avenue, Frederick, Maryland. In the said application, he represented the proposed structure would have a floor area of 1,480 square feet. Based upon this representation, the Federal Housing Administration authorized construction of the dwelling. In submitting the application, Elmer W. Mottern wilfully made false and misleading statements, and concealed material facts from the Federal Housing Administration, in that he failed to disclose the building was more than 50% completed, and had a floor area amounting to 2,281 square feet. This misrepresentation and concealment subjected Elmer W Mottern to action provided in paragraph (j) of Veterans' Housing Program Order 1. This action has diverted critical materials to uses not authorized by the Office of the Housing Expediter. In view of the foregoing, it is hereby ordered that:

§ 807.29 *Suspension Order No. S-29.* (a) The authorization granted Elmer W. Mottern on Form OHE 14-56, dated March 25, 1947, is hereby revoked.

(b) Neither Elmer W. Mottern, his successors or assigns, nor any other person shall do any further construction on the premises located at 28 Rosemont Avenue, Frederick, Maryland, including putting up, completing or altering the structure,

unless specifically authorized in writing by the Federal Housing Administration or the Office of the Housing Expediter.

(c) Elmer W Mottern shall refer to this order in any application or appeal which he may file with the Federal Housing Administration or the Office of the Housing Expediter for authorization to carry on construction.

(d) Nothing contained in this order shall be deemed to relieve Elmer W Mottern, his successors or assigns, from any restriction, prohibition or provision contained in any other order or regulation of the Office of the Housing Expediter except insofar as the same may be inconsistent with the provisions hereof.

Issued this 23d day of May 1947.

OFFICE OF THE HOUSING EXPEDITER,
By JAMES V SARCONE,
Authorizing Officer

[F. R. Doc. 47-5009; Filed, May 23, 1947; 12:16 p. m.]

[Housing Expediter Rent Control Order 2]

PART 820—RENT CONTROL ORDERS UNDER THE EMERGENCY PRICE CONTROL ACT OF 1942 AS AMENDED

ISSUANCE OF ACTIONS BY DIRECTION OF THE HOUSING EXPEDITER

§ 820.2 *Issuance of actions by direction of the Housing Expediter* (a) In addition to the methods prescribed by paragraph "(m)" of Housing Expediter Rent Control Order 1, all actions in performance of the functions of the Housing Expediter set forth in section 203 of the Emergency Price Control Act of 1942, as amended, may be taken and issued by direction of the Housing Expediter, and signed by the Deputy Housing Expediter, Rent Control, which actions may be evidenced in substantially the following form:

By direction of the Housing Expediter:

_____
Deputy Housing Expediter, Rent Control

(b) *Effective date.* This section, Housing Expediter Rent Control Order 2, shall become effective May 23, 1947.

(56 Stat. 23; 56 Stat. 767; 58 Stat. 632; 59 Stat. 306; 60 Stat. 664; E. O. 9809, 11 F R. 14281, E. O. 9841, 12 F R. 2645; R. C. O. 1, 12 F R. 2986)

Issued this 23d day of May 1947.

WILLIAM E. O'BRIEN,
Acting Housing Expediter

[F. R. Doc. 47-5088; Filed, May 26, 1947; 11:45 a. m.]

[Housing Expediter Rent Control Order 3]

PART 820—RENT CONTROL ORDERS UNDER THE EMERGENCY PRICE CONTROL ACT OF 1942 AS AMENDED

OFFICIAL SIGNATURE FOR OFFICE OF HOUSING EXPEDITER

§ 820.3 *Official signature for Office of Housing Expediter* (a) The Housing Expediter may take and issue in his own name any action in performance of the functions vested in him under the Emergency Price Control Act of 1942, as amended, and Executive Order 9841.

Except as otherwise provided in this section all actions in performance of the functions vested in the Housing Expediter under the Emergency Price Control Act of 1942, as amended, and Executive Order 9841 (but not including delegations of authority) shall be taken and issued in the name of the Office of the Housing Expediter, countersigned or attested by the authorizing officer in substantially the following form:

Office of the Housing Expediter

by_____
Authorizing Officer

Unless authorized or directed by the Housing Expediter to take official action in his own name, every officer and employee of the Office of the Housing Expediter shall be governed by the provisions of this section in taking action requiring the official signature of the Office of the Housing Expediter.

(b) Appointment of the Authorizing Officer: James V Sarcone has been appointed Authorizing Officer for the Office of the Housing Expediter. The Authorizing Officer will be governed by instructions of the Housing Expediter or his duly authorized representative in countersigning, attesting, or issuing any action of the Office of the Housing Expediter.

(c) *Effective date.* This section, Housing Expediter Rent Control Order 3, shall become effective May 23, 1947.

(56 Stat. 23; 56 Stat. 767; 58 Stat. 632; 59 Stat. 306; 60 Stat. 664; E. O. 9809, 11 F R. 14281, E. O. 9841, 12 F R. 2645; R. C. O. 112 F R. 2986)

Issued this 23d day of May 1947.

WILLIAM E. O'BRIEN,
Acting Housing Expediter

[F. R. Doc. 47-5089; Filed, May 26, 1947; 11:45 a. m.]

PART 851—ORGANIZATION DESCRIPTION INCLUDING DELEGATIONS OF FINAL AUTHORITY

DESIGNATION OF ACTING HOUSING EXPEDITER

§ 851.22 *Designation of Acting Housing Expediter* William E. O'Brien is hereby designated to act as Housing Expediter during my absence on May 23, 1947, with the title "Acting Housing Expediter" with all the powers, duties, and rights conferred upon me by the Veterans' Emergency Housing Act of 1946, or any other act of Congress or Executive order, and all such powers, duties, and rights are hereby delegated to such officer for such date.

(60 Stat. 207, 50 U. S. C. App. Sup. 1821)

Issued this 21st day of May 1947.

FRANK R. CREEDON,
Housing Expediter

[F. R. Doc. 47-4982; Filed, May 26, 1947; 8:59 a. m.]

TITLE 32—NATIONAL DEFENSE

Chapter VII—Sugar Rationing Administration, Department of Agriculture

[Gen. RO 19]

PART 705—ADMINISTRATION

DISTRIBUTION OF BASES TO CERTAIN NEW USERS

General Ration Order 19 is issued to read as follows:

Preamble. Section 1 (b) (3) of the Sugar Control Extension Act of 1947 provides that the Secretary of Agriculture shall "in a manner consistent with the maintenance of an effective national allocation and rationing program, make available, for other than provisional allotment users, not less than 12,500 tons of refined sugar during the period from the date of enactment of this act to and including June 30, 1947, and not less than 12,500 tons of refined sugar during the period from July 1, 1947 to and including October 31, 1947, to provide for the needs of hardship cases, for the needs of new industrial sugar users (with particular reference to the needs of shortage areas caused by population shifts) and for the needs of those who have an insufficient base period history to operate currently at competitive levels (and shall consider, as a determining factor in those cases where there is such insufficient base period history, the rate of growth of such user prior to the base period year)" This general ration order and companion amendments to the sugar rationing regulations are designed to effectuate this mandate.

New businesses. The sugar rationing regulations permit any person to apply for and obtain sugar for a new business which will be engaged in canning of fruits and vegetables and for the processing of certain other foods. Unrestricted entry into such businesses is designed to permit preservation of important food commodities in ways which require relatively small use of sugar in relation to total food involved. In addition, anyone may obtain sugar for the serving of meals. Such rations are obtained at a limited rate for each meal service. This was designed to facilitate expansion of necessary public feeding facilities during the war and to fit the issuance of rations for that purpose to the needs of a rapidly shifting population. Moreover, anyone may open an establishment for the production or distribution of sugar. Thus, any person may open a retail, wholesale or primary distributor establishment to deal in or produce sugar.

The short supply situation, however, required that the total amount allocated for most industrial uses and for refreshment services be curtailed. This curtailment was accomplished by giving such businesses a percentage of their use during the base period prior to the rationing of that food. Since established businesses were thus restricted, it was felt inequitable to permit free opening of new businesses. On March 22, 1945, however, in order to give recognition to the intent of Congress as indicated in "The Servicemen's Readjustment Act of 1944", Gen-

eral Ration Order 18 provided for the establishment of bases to certain former members of the armed forces for industrial use and for the service of refreshments. In addition, throughout the period of rationing, sugar was made available for use in connection with the needs of the national defense, as for example, for use in production of bomber parts, even though no base period use for such purpose existed. However, aside from these provisions, there were no generally applicable methods provided by which any person, not a veteran, could enter into such businesses.

Congress, however, in the Sugar Control Extension Act, set forth its intention that, at this stage in the general reconversion from a war-time to a civilian economy, persons other than veterans should also be permitted to enter into sugar using businesses. It was recognized, however, that only a limited amount of sugar could be made available for this purpose without seriously impairing the effectiveness of the rationing program. Provision was therefore made, as stated above, that 25,000 tons of sugar should be available for such new users (and for the other specified cases) during the period from April 1, 1947, through October 31, 1947. Of course, if sugar is distributed to the extent provided during the second quarter of 1947 for "new businesses," it must be assumed that these same new businesses must be provided with a similar amount for the period July 1 to October 31, 1947, if they are to be permitted to continue in operation. Therefore, issuance of sugar during the second quarter for this purpose will almost automatically create a charge against, and a using of, the allocation for the same purpose for the remaining life of the rationing program.

This order, therefore, provides that, within the limited quantity available, any person who wishes to enter into a sugar using business may apply for a sugar base for such purpose.

There have been two major possible ways suggested for determining sugar bases for new users:

(1) The productive capacity of the new user could be determined. This capacity, or a reasonable percentage thereof, could be set up as the new user's base, and allotments granted by application to that base of a percentage factor in light of the sugar supply available for such use.

(2) A procedure similar to that used for veterans under Revised General Order 18 could be adopted. Under this method, fixed bases would be set up for the production of various products or groups of products, without regard to the productive capacity of, number of employees, or investment made in the business.

Either of these methods could be used on a "first come—first served" basis, permitting issuance of bases to new users only up to a fixed over-all amount available for that purpose, rather than free entry of all new users without over-all quantity limitation.

Experience has shown that the first plan, "the capacity formula", is extremely difficult of administration and that it is time-consuming if properly applied. If, as is expected, many thousands of new users would enter business if permitted so to do, the administrative job of individual capacity determination in these thousands of cases would be so great that many applicants would not receive bases and allotments without long delays up to many months in length. In practice then, this breakdown in the "capacity formula" could be avoided only by acceptance of the capacity claims of the users themselves, without investigation into the bona fides of these claims. In view of the multitude of methods for determining "capacity" this would inevitably lead to grave inequities among such new users, and, equally clearly, as between new users and established users.

It is clear also that if the capacity formula for all new users were adopted, only a small number of new users could enter into business within the limited amounts of sugar allotted to that purpose, unless there were a limitation on the amount each user could obtain, which in practice would reduce this plan to a mere variation of the other. Moreover, it is clear from the legislative debates and hearings that Congress intended to encourage the development of as many new businesses as the limited amount of sugar available could accomplish. Experience under the veterans' regulations has demonstrated that the amounts available thereunder are sufficient to establish new businesses and will provide for a maximum number of new businesses. This order therefore provides, as does the veterans' order, that a new user who applies for a sugar base will be granted a base in the amount of the sugar requested, that of a comparable establishment in the same area serving the same class of customers, or the maximum set up in the order for that class of product, whichever is smaller.

Since it is clear that Congress intended sugar bases to be distributed to new industrial and refreshment service users, and not for the purpose of increasing supplies of existing users, these regulations also provide, as does the veterans' order, that, generally, a person who now has a sugar using establishment or who has had a sugar using establishment under rationing will not be eligible to obtain a base hereunder. For similar reasons this order provides that a new user who is financed or otherwise controlled by established industrial or institutional users is not eligible for a new user base, nor will new users be permitted to make products which are generally destined for industrial or institutional user rather than for consumer use. Thus, an applicant will not be permitted to establish a base for making fondant, which is a product generally sold only to bakers and other industrial users, nor would the applicant be permitted to make fountain syrup other than that which he would package in consumer size containers. Various other restrictions which experience under the veterans' order has indicated are necessary in order to guard against fraud in the obtaining of allotments and use of sugar by established industrial users under the guise of new users are also made a part of this regulation. Thus, there are provisions against tolling, use of the premises and equipment of established users, and limitations on the transfer of business.

Congress was interested not only in the granting of sugar bases to new users, but also with the geographical distribution of the new bases. In the express terms of the act the new bases should be allocated "with particular reference to the needs of shortage areas caused by population shifts." In order to effectuate this intent the sugar available for this purpose is being apportioned to the various Branch Offices of the Sugar Rationing Administration in proportion to the population of the areas served by them. It is believed that processing at the Branch Offices will afford the most expeditious method of handling the issuance of the sugar allocations in the proper geographical proportions. The population figures are computed in accordance with the latest information available to the Sugar Rationing Administration, from the registration figures for War Ration Book Four in 1945, adjusted in accordance with information supplied by other government agencies, State Boards of Education and other reliable data submitted by various state and county organizations since that time. To assure that both types of operations are taken care of in the distribution of sugar bases, each Branch Office's quota is further divided into quotas for industrial use and quotas for institutional refreshment bases in the same proportion that the amount of sugar for industrial use granted under General Ration Order 18 bears to the amounts granted for institutional refreshment use.

Obviously the amount of sugar available for this purpose will not be sufficient to provide bases for every individual who wishes to enter into a sugar using business. The most reasonable method for handling applications, therefore, seems to be to consider only those applications filed since March 31, 1947 on the basis of "first come—first served" until all of the sugar available for this purpose has been allocated. Each other method considered presents insurmountable administrative difficulties or inequitable results. For example, all applications filed for new businesses since the beginning of the rationing program could have been revived and considered in connection with this new program. Even assuming that it would be administratively possible to identify all of the thousands of applications for this purpose which were made during the past five years the rationing program has been in effect, it is clear that, in view of the great number of such applications, all the sugar allocated for this purpose would be used up in supplying these applicants without recognition of the claims of persons who applied for the first time with specific knowledge of and specific reference to the mandate stated, for the first time, in the Sugar Control Extension Act of 1947. On the other hand, consideration, in addition to those made on or after March 31, 1947, of only those applications filed prior to that

date on which decision had not yet been rendered, creates, first, an inequity in favor of such persons against the multitude who applied previously and were denied, and, second, a lesser but still real inequity against those persons who applied, and would apply, for the first time in contemplation of the new legislative provisions. Accordingly, it was believed most equitable to consider for this purpose only those applications as to which a reasonable presumption could be indulged that they had been filed with knowledge of and in contemplation of the mandate requiring establishment of new sugar using businesses. It is, therefore, provided that all applications made on or after March 31, 1947, the date of enactment of the Sugar Control Extension Act, shall be processed in the order of their filing on and after that date.

Hardship and insufficient base period history adjustments. The act also requires the Secretary of Agriculture to provide "in a manner consistent with maintenance of the national allocation and rationing program for the needs of hardship cases and for the needs of those who have an insufficient base period history to operate currently at competitive levels " Since the inception of the sugar rationing program adjustments of various kinds have been granted to persons who were found to suffer hardships imposed by the operation of the rationing system, or to be placed thereby in an unrepresentative competitive position. Thus, for example, a person whose sugar use during the base period, 1941, was curtailed by a fire, strike or other catastrophe was granted an adjustment to compensate for the unrepresentative nature of his base period history occasioned thereby, In the case of persons who, during the base period, invested in productive equipment and facilities it was clear that their base period history could not adequately reflect utilization of such new equipment or facilities, and that allotment of sugar to them on the basis of their actual base period usage was unrepresentative of their proper competitive position in the industry, and caused hardship. Accordingly, a pre-rationing investment adjustment which permitted increases in base period usage to reflect the additional sugar using capacity thus acquired by such individuals was made. These are merely two examples of the various kinds of adjustments which have been made from time to time in the course of the sugar rationing program to mitigate hardship caused by the operation of that program, other than the general hardship necessarily imposed by the shortage of sugar itself, and to equalize the competitive positions of persons who, as of the inception of the rationing program, possessed similar facilities and equipment.

No hardship has generally been deemed to be imposed by the operation of the rationing program upon persons who, during the course of such program, purchased additional equipment or set up a new plant, since they did so with full knowledge of the existence of the limitations imposed by the rationing program. It is the opinion of the Secretary of Agriculture that, as a general rule, such situations still do not constitute hardship cases within the meaning of the statutory mandate to make some provision for such cases, and that treatment at this time of such situations as constituting an insufficient base period history for current operation at competitive levels would be inconsistent with maintenance of the national allocation and rationing program.

On the other hand, many industrial users who have been in business since before 1941, the base period for the rationing program, operated during 1941 at a level which, in terms of the capacity of their equipment, was below that of the lowest percentage of operation of a substantial portion of the industry. Continued operation during rationing on an allotment which reflected this very low rate of use during their base period can be presumed to impose hardship upon them in that their rate of operations seems clearly unrepresentative of the normal rate of operation of the industry of which they are a part. Whether such cases be considered to fall within the "hardship" or the "insufficient base period history" cases envisaged by the Sugar Control Extension Act, it seems clear that this is one of the types of situations that Congress had in mind for correction by that act.

Under the rationing program individuals who purchased sugar using businesses for continued operation received the bases which were then assigned to the businesses purchased. In many cases, however, although the business which was purchased was entitled to receive an increased base by way of adjustment under one or another of the adjustment rules outlined above, no application therefor had been made by the original owner up to the time the business was sold. It was believed that since the purchaser knew the size of the business and of its base which he was purchasing, he suffered no hardship in being required to continue to operate on that base without adjustment, and, accordingly no adjustment in base was made in such a case to the purchaser of a business. It seems clear however that such businesses are, by operation of this rule, caused to operate at levels below the normal competitive level which they would have achieved but for the institution of rationing, since the base period history of the purchased business had been rendered unrepresentative of its true competitive position in the industry by virtue of the fire, strike, pre-rationing investment or other circumstance which would have entitled the original owner of that business to receive an adjustment.

It is the opinion of the Secretary of Agriculture that granting of appropriate adjustments to any person whose base is below the level at which, in terms of the productive capacity of his facilities, the lowest substantial segment of his industry operated in 1941, to increase his base to that level, and to any person now owning a business which, because of an unrepresentative or insufficient base period history, would have been entitled to an adjustment had the original owner thereof applied for such adjustment, will relieve many hardship cases heretofore unrecognized, and will permit current operation of such businesses at the competitive levels which they could have attained but for rationing.

It is further the opinion of the Secretary that these adjustments give as full consideration to the "rate of growth" of such users prior to 1941 as is administratively practicable, consistent with effective maintenance through October 1947 of the rationing program. The potential business growth factor inherent in changes in investments is fully recognized in the adjustments hereby provided and those already in effect.

The Secretary is of the opinion, therefore, that the adjustments hereby authorized satisfy fully the requirements respecting "hardship" and "insufficient base period history" cases contained in section 1 (b) (3) of the Sugar Control Extension Act of 1947.

The statutory mandate requires allocation of not less than 12,500 tons of refined sugar for all the declared purposes for each of the periods designated. It has been impossible to calculate how this amount could be so divided among the various purposes for which, under the new program, it is required to be allocated, as to give a fair share thereof of each purpose. Accordingly, since a major concern of the Congress was with the establishment of new businesses, the Secretary has concluded that full compliance with the statutory intention, so far as new businesses are concerned, can best be assured by assigning, for that purpose alone, the full minimum allocation of 12,500 tons of sugar per quarter. In order to permit uniform processing of all allotment issuances for established and for these new users, this quantity is being issued in the form of bases rather than allotments, so calculated that, at the current allotment rates, the issuances will result in a total actual issuance of 12,500 tons. For the other program changes additional sugar will be made available above this minimum amount so long as such additional allocations will not endanger effective operation of the rationing program itself. In this way, in the opinion of the Secretary of Agriculture, there can be no question but that there will be made available for these special purposes at least as much sugar as was intended to be made available under the terms and intention of the legislation.

ARTICLE I—NEW BUSINESS

ARTICLE II—TRANSFER AND MOVING

ARTICLE III—PROHIBITIONS AND REVOCATION

ARTICLE IV—MISCELLANEOUS

AUTHORITY: Section 705.5 issued pursuant to the authority vested in the Secretary of Agriculture by the "Sugar Control Extension Act of 1947."

ARTICLE I—NEW BUSINESS

Section 1.1 *Who may apply.* (a) Any person who qualifies under the provisions of section 1.4 of this order and who wishes to open an industrial user establishment or to obtain a base for refreshment services, or a combination of both, may apply for registration and a base or bases for one or both of these purposes. However, any person who, at the time of application, has a administrative order or a court order outstanding against him which suspends his right to deal in sugar or prohibits him from dealing in sugar may not apply under this order.

SEC. 1.2 *Where he applies.* (a) Application must be made to the Branch Office for the place where his establishment will be located.

SEC. 1.3 *How application is made.* (a) Application may be made on or after March 31, 1947. The application must be in writing and may be either on SRA Form R–1234 or in any written form. However, if an application is not made on SRA Form R–1234, all of the information required by that form, as set forth in section 4.5 of this order, must be submitted by the applicant in accordance with the provisions of section 1.5 of this order before final action will be taken.

SEC. 1.4 *Eligibility requirements.* No person may be granted on his application a base under this order unless he meets the following requirements:

(a) The applicant is or will be either the principal owner and active head of the business covered by the application, or is or will be a joint owner of the business and will be actively engaged in the operation of such business and the financial interest held by himself and by members of his immediate family or persons who are themselves eligible for a base under this order aggregate the principal ownership of the business. (Principal ownership means that the applicant himself or the applicant along with members of his immediate family or other eligible persons owns more than 50% interest in the proposed establishment.)

(b) He must have or will acquire the premises and equipment needed for the operation of the business for which he is applying. The equipment must consist of the size and type of productive sugar using equipment necessary to produce the type of product and to utilize the amount of sugar for which a base is requested. If a person make application for a base before he acquires such premises and equipment, he must state the size and type of equipment and premises which he will obtain if he is granted a base under this Order and he will be given a written statement as to the amount of the base he may obtain upon acquiring the equipment and premises as stated in the application. However, allotments will not be issued until the applicant notifies the Branch Office that he has obtained the necessary premises and equipment. If it is found that the productive equipment for the establishment for which the base has been granted is not sufficient to utilize the amount of sugar obtained with respect to the base which has been granted, the Branch Office may reduce the base so that the amount of sugar obtained with respect to such reduced base can be utilized with the productive equipment which the registrant has or acquires.

(c) He must not be financed directly or indirectly in the operation of his business by any person already registered as an industrial user under Third Revised Ration Order 3, Revised General Ration Order 18, or as an institutional user under Revised General Ration Order 5, or Revised General Ration Order 18. (An industrial or institutional user may not have any financial interest in the applicant's business, or profits derived therefrom. Thus, the applicant may not owe an industrial or institutional user money under any arrangement where such person supplies on credit to him premises, equipment or materials needed to operate the applicant's business. However, an industrial or institutional user may sell or deliver to a person who has been granted a base under this Order the ingredients contained in products such person will make or serve under an arrangement whereby payment in full is made within a period not exceeding thirty days after each separate delivery of such ingredients. Moreover, a bona fide lease between the applicant and such persons for premises or equipment is permissible under the order)

(d) He will not use the premises in use by an industrial or institutional user and he will not use the equipment in use by any person for commercial purposes. (For example, he may not lease equipment for only part time use by himself).

(e) Except as otherwise provided herein and in paragraph (f), he must not at the time of application have any sugar using business for which he receives an allotment or allowance under Third Revised Ration Order 3, Revised General Ration Order 18, or Revised General Ration Order 5 and must not have had any sugar using business at any time since April 20, 1942 for which he received an allotment or allowance which he was entitled to receive as an industrial or institutional user under the Sugar Rationing Regulations. (The provisions of this paragraph do not apply to persons who receive or have received allotments for experimental, testing or educational purposes, persons who receive or have received sugar or evidences for industrial use under a tolling arrangement, persons who receive or have received sugar or evidences for manufacturing products for an exempt agency).

(f) Even though a person has an institutional user meal service base under the provisions of Revised General Ration Order 5, he may apply for an incidental refrshment base for his establishment. If a person has had at any time since April 20, 1942, a meal service base, but has not had a refreshment base, he may apply only for a refreshment base under this order and is not eligible for a base as an industrial user.

SEC. 1.5 *Action on the application.* (a) The Branch Office shall accept applications under this order only if filed in writing on or after March 31, 1947. Applications shall be considered and determined in the order they are filed. For the purposes of determining the order of filing, the postmark date shall be used if the application was mailed, the date of receipt if the application was personally delivered or made by telegraph. If, after the effective date of this Order, any application is received at the National Office, Regional Office, or any Branch Office other than the one at which the application should properly be filed, the date of filing of such application will be the date on which it is received by the Branch Office at which it should have been filed, after forwarding by the Office at which it was originally received. If it is necessary, in order to process applications filed on or after March 31, 1947, to have additional information, the Branch Office shall send to the applicant by registered mail, return receipt requested, a copy of SRA Form R–1234 which shall be completed and returned by the applicant within 14 days after such application form has been received by him. However, if such application form, or any written document containing all of the information required in section 4.5 of this order, is not returned to the Branch Office within the 14 day period, the submission of the additional information must be treated as the filing of a new application by the applicant. Completed information returned to the Branch Office within the 14 day period shall be deemed to have been filed as of the time the original application was filed.

(b) If the Branch Office finds that the applicant qualifies under the provisions of this order, it shall establish a base or bases in accordance with the following procedure:

(1) If the person applies for a base for industrial use to make one of the products or uses listed in section 4.3, it shall register the applicant on OPA Form R–1200 and grant him a base. The base granted, however shall be the base of a comparable establishment in the area in which his establishment is located, the amount requested, or the maximum for that group of products as listed in section 4.3, whichever is smallest. If the products or uses which the applicant wishes to make are not included in section 4.3, the Branch Office may not act upon the application but must send it, together with any other

information received, to the Washington Office for decision, or take such other action as the Washington Office may authorize or direct.

(2) If the person applies for a base to make refreshment services of a type listed in section 4.4, it shall register him as an institutional user and grant him a refreshment base. The base granted, however, shall be the base of a comparable establishment in the area in which his establishment is located, the amount requested or the maximum for his type of refreshment service as listed in section 4.4, whichever is smallest. If the type of refreshment service which the applicant wishes to make is not included in section 4.4, the Branch Office may not act upon the application but must send it, together with any other information received, to the Washington Office for decision, or take such other action as the Washington Office may authorize or direct.

(3) If the person applies for bases to make more than one group of products or uses listed in section 4.3, or to make more than one type of refreshment services listed in section 4.4 or for a combination industrial and institutional use, it shall register the applicant as an industrial user or as an institutional user, or both, as the case may be, and grant him a base or bases for the operations for which he applies. However, the base or bases granted shall be the smallest of the following:

Base or bases of a comparable establishment in the area in which the establishment is located, the amount requested, or with respect to each group of products or type of refreshment service for which he requests a base, the percentage requested by him of the base for that group of products or type of refreshment service which he could obtain under subparagraph (1) or (2) of this section, if he were to engage only in making that group of products or providing that type of refreshment service.

In no event, however, shall the Branch Office establish a base or bases for any applicant where the establishment of such base or bases would exceed the quota of sugar authorized to be distributed by the Branch Office under this order. (Thus, if only 20,000 pounds in base quota for industrial use remains available for distribution by a Branch Office, the base established for the applicant, who is then eligible for a base, may not exceed 20,000 pounds. If that applicant refuses to accept this amount, the next eligible applicant shall be granted the amount of base to which he is entitled but not in excess of 20,000 pounds, and so on, until the 20,000 pounds is fully distributed.)

(c) The filing of an application for the establishment of a base under this order will also be deemed to be an application for the allotment to be issued during the quarter in which the base is established. The issuance of an allotment during the quarter in which the base is established will not be subject to the provisions of section 2.2 (b) of Third Revised Ration Order 3 or section 5.3 (c) of Revised General Ration Order 5.

(d) If two or more persons eligible for a base under this order apply for a base for the same establishment, the base granted for the establishment may not be larger than if only one applies.

SEC. 1.6 *Use of allotments.* (a) No person who obtains a base under this order may use his allotments of sugar for any product or refreshment service, not included in the group of products or type of refreshment service, for which he was granted the base or bases. Furthermore, no such person may use more sugar in an allotment period for any group of products or type of refreshment service, for which he has been granted a base, than his allotment for that period plus any unused part of his allotments for earlier periods.

SEC. 1.7 *Excess inventory.* (a) The determination of excess inventory and the manner in which adjustments and charges for such excess inventory are made, as set forth in section 2.8 of Third Revised Ration Order 3 and 9.7 of Revised General Ration Order 5, shall apply with equal force and effect in this order.

ARTICLE II—TRANSFER AND MOVING

SEC. 2.1 *Transfer of establishment.* (a) If an establishment for which a base has been granted under this order is transferred after registration, the transferee may not receive the base granted pursuant to this order or the current allotment or any unused parts of prior allotments issued with respect to that base for the transferred establishment. However, if the registrant dies after the registration the transferee of the establishment may be granted the base and the current allotment and unused parts of prior allotments, and the transferee is not subject to the restrictions of this order but is subject to the provisions of Third Revised Ration Order 3 or Revised General Ration Order 5, whichever is applicable.

SEC. 2.2 *Moving of establishment.* (a) A person who is granted a base under this order may move that establishment only if he gets permission from the Branch Office with which he is registered. The applicant must apply in writing to the Branch Office with which he is registered and must state the city and state to which he wishes to move his establishment. Permission to move an establishment shall not be granted in any case unless the new location to which the applicant wishes to move is in the area over which the Branch Office from whose quota his base was established had jurisdiction on April 1, 1947.

(1) If the base of a comparable establishment in the new location to which the applicant wishes to move is the same as or greater than the applicant's base, permission to move shall be granted. However, the applicant's base shall not be increased to that of the comparable establishment in the new location nor to the maximum base established under the order if the applicant does not have the maximum base.

(2) If the base of a comparable establishment in the new location is less than the applicant's base, permission to move shall be granted but his base shall be reduced to that of the comparable establishment.

ARTICLE III—PROHIBITIONS AND REVOCATION

SEC. 3.1 *Prohibitions and restrictions.* (a) A person who has been granted a base under this order shall not do any of the following:

(1) Transfer (toll) any sugar or evidences obtained on the base received under this order to another person for industrial or institutional use;

(2) Use the premises in use by an industrial or institutional user or use the equipment in use by any person for commercial purposes;

(3) Be financed directly or indirectly in the operation of his business by any industrial or institutional user so that the conditions imposed by section 1.4 (c) are no longer true;

(4) Transfer the ownership interest in the business or cease to be actively engaged in the operation of the business so that the conditions imposed by section 1.4 (a) are no longer true;

(5) Use his allotments of sugar for any product, or refreshment service, not included in the group of products or type of refreshment service for which he was granted a base or bases;

(6) Package the finished product, for which he was granted the base or bases, in a container greater than the maximum consumer size authorized for such product.

(b) In addition, the record-keeping requirements, the restrictions, prohibitions and conditions of Revised General Ration Order 5, General Ration Order 8 and Third Revised Ration Order 3 apply with respect to any base granted under this order except where otherwise specifically provided by this order.

SEC. 3.2 *Revocation of base.* (a) Whenever a person who has been granted a base under this order, does any of the things prohibited by paragraph (a) of section 3.1 of this order, the Branch Office may revoke such base after a notice and hearing, or opportunity for a hearing, has been given in accordance with the procedure set forth in Article XXIV of Third Revised Ration Order 3.

ARTICLE IV—MISCELLANEOUS

SEC. 4.1 *Population increase adjustment not permitted.* (a) Population increase adjustments under section 2.3 of Third Revised Ration Order 3 may not be granted to persons receiving a base under this order.

SEC. 4.2 *Adjustment under section 17.7 of Third Revised Ration Order 3.* (a) Any person who is eligible to and does receive a base or adjustment under section 17.7 of Third Revised Ration Order 3, after having received a base under this order, will no longer be entitled to the base which he received under this order.

SEC. 4.3 *Group of products, maximum sizes, and maximum annual industrial user base for such products authorized to be established.*

INDUSTRIAL USERS

Group of products	Maximum consumer size container permitted (ounces)	Maximum annual base permitted (number of pounds of sugar)
1. Bread and rolls only	(1)	12,800
2. General baking products (excluding bread and rolls)	(1)	28,200
3. Ice cream, ices, sherberts, frozen custards (excluding mixes used for any of these products)	(1)	40,000
4. Bottled beverages (nonalcoholic)	(1)	80,000
5. Candy	(1)	31,200
6. Caramel popcorn	(1)	16,000
7. Mayonnaise to be packed in containers of one quart or less		600
8. Salad dressing to be packed in containers of one quart or less		1,200
9. Baking mixes	16	78,200
10. Fruit compote	18	20,000
11. Gelatins, puddings, powdered desserts:		
(a) In powder form	8	80,000
(b) In prepared form	16	80,000
12. Insecticides	(1)	1,200
13. Jams, jellies, marmalades, preserves, fruit butters	32	80,000
14. Meat spreads	32	1,200
15. Peanut butter	16	6,000
16. Pharmaceuticals:		
(a) Cough drops	3	23,000
(b) Cough syrups	(1)	9,200
(c) General	(1)	1,400
17. Sauces (for meat, fish, poultry, etc.)	14	9,800
18. Spaghetti, macaroni, and noodle products packed in sauce	20	14,000
19. Stews (brunswick, etc.)	24	3,600
20. Flavoring extracts	8	80,000
21. Glaced fruits for baking purposes	32	80,000
22. Pickles, relishes, etc.	32	80,000
23. Shredded sweetened coconut	8	48,000
24. Syrups:		
(a) Table, except chocolate	32	80,000
(b) Chocolate	16	80,000
(c) Concentrated (liquid or powdered)	8	80,000
25. Maraschino cherries	16	80,000
26. Other (specify) (consumer sizes for direct consumer use only)	(2)	(2)

[1] No restriction.

[2] To be determined by Washington Office.

SEC. 4.4 *Type of refreshment service and maximum monthly institutional user refreshment base for each type of refreshment service authorized to be established.*

INSTITUTIONAL USERS

Type of refreshment service	Maximum monthly refreshment base permitted (number of pounds of sugar)
1. General fountain services (can not be combined with 3, 5 or 7)	400
2. Snow balls or snow cones	100
3. Fruit juices or vegetable juices	100
4. Ice cream, sherbets, or frozen custard	720
5. Coffee, tea, lemonade or orangeade	400
6. Alcoholic beverages	80
7. Carbonated beverages	400
8. Incidental refreshment base for establishment with meal service base (can not be combined with any other type of refreshment service)	120
9. Caramel popcorn	200
10. Candied apples	320
11. Candy floss	200
12. Other (specify)	(1)

[1] To be determined by the Washington office.

SEC. 4.5 *Application form.*

SRA Form R-1234 (5-47) Form approved Budget Bureau No. 40-R1625

This form may be reproduced without change

U. S. DEPARTMENT OF AGRICULTURE
SUGAR RATIONING ADMINISTRATION

APPLICATION FOR A SUGAR BASE

(Pursuant to General Ration Order 19)

Name of applicant	Serial number
City, postal zone number, State	
Name of establishment you will operate	
Address—Number and Street	
City, postal zone number, State	

INSTRUCTIONS

Who may apply for a base

You may use this form in applying for a base as a new industrial user of sugar or an institutional user refreshment base provided that:

1. You do not have a sugar using business at the time of application, and you have *not* operated a business at any time since April 20, 1942 for which you were entitled to and did receive an allotment or provisional allowance of sugar under the Sugar Rationing Regulations, except a business using sugar or sugar ration evidence that you received:

(a) as a tollee (a person who receives sugar or sugar ration evidence for the purpose of manufacturing a product for another industrial user), or
(b) for educational, experimental, or testing purposes, or
(c) from an exempt agency (such as the Army or Navy) for industrial use, or
(d) for institutional use in the service of meals, and

2. You do not have an administrative order or a court order outstanding against you which suspends your right to deal in sugar or prohibits you from dealing in sugar.

Where to file applications

File your application (original only) with the SRA Branch Office serving the area in which your establishment is or will be located.

Caution

You are advised *NOT* to invest in premises and equipment until notified by the SRA Branch Office that your request for a base will be granted.

Your base may be revoked if you do not comply with the provisions of GRO 19. To insure your full understanding of the eligibility requirement for a sugar base be sure to read the Order.

Explanation of terms

An "institutional user" or an "industrial user" is a person who uses sugar to make a product which he will sell. If the product is made for consumption on his premises, he is generally an *institutional* user. If the product is made for consumption off the premises he is generally an *industrial* user. Thus, a person who makes and sells ice cream which he serves in dishes or cones is an institutional user, but if he packages ice cream in bulk containers for consumption off his premises he is an industrial user with respect to the sugar used in producing that ice cream.

"*Base*" The industrial user "base" is not the amount of sugar you will receive as an allotment, but is the basic figure on which an allotment is computed. The annual base for industrial users will be divided into four equal quarterly amounts. An institutional user refreshment base is established on a monthly rather than an annual basis.

The base established for you will be the lowest of (1) the amount requested (2) the base of a comparable establishment (3) the maximum amount established by GRO 19 for the product(s) you will make or serve.

Allotment

Industrial user allotments are issued for a quarterly period o three months. The percentages in effect for all industrial users during the quarter in which your allotments are issued will be applied to your base.

Institutional user refreshment allotments are issued for a two-month period.

PART I—GENERAL

1	Are you now receiving, or have you ever received an institutional or industrial allotment or provisional allowance of sugar (to which you were entitled) under sugar rationing? If "Yes," explain	Yes ☐	No ☐
2	Is there an administrative order or a court order outstanding against you which suspends your right to deal in sugar or prohibits you from dealing in sugar?	Yes ☐	No ☐
3	Will you be actively engaged in the operation o. the proposed establishment?	Yes ☐	No ☐
4	Do you (and members of your immediate family or other persons eligible for a base under General Ration Order 19) own more than 50% interest in the proposed establishment? NOTE: Immediate family means wife, husband, mother, father, daughter, son brother or sister of the applicant.	Yes ☐	No ☐
5	Have you been, or will you be financed directly or indirectly in the operation of your establishment by an industrial or institutional user? *Example:* Purchase of equipment or premises from an industrial or institutional user on the installment plan or any other credit arrangement is indirect financing. Borrowing money or credit from an industrial or institutional user is direct financing.	Yes ☐	No ☐
6 a	Will you share premises with another industrial or institutional user?	Yes ☐	No ☐
6 b	Will the equipment that you will use be used by any other person for commercial purposes?	Yes ☐	No ☐
7	Do you have another application for a base pending? If "Yes," give the address o the Office where filed. _____ (Number and Street) _____ (City and State)	Yes ☐	No ☐

If you are applying for an industrial user base, fill in Part II. If you are applying for an institutional user refreshment base, fill in Part III. If you are applying for a combined industrial-institutional user operation, fill in Part II and Part III.

PART II—INDUSTRIAL USER

8 *Instructions.* Bases may be granted for making one or more groups of products. If you will produce only one group of products read the instructions designated (a); more than one, read (b); combined industrial-institutional use, read (c). Obtain from your SRA branch office maximum bases allowed for each product or group of products, and the package sizes permitted for certain products.

(a) *One group of products.* Enter the group of products you will produce in Column A and in Column B the size in which the product will be packaged, if applicable. Enter in Column C the amount of sugar base you wish and in Column D enter 100%.

(b) *More than one group of products.* Enter the groups of products you will produce in Column A. Enter the size in which the product will be packaged (if applicable) in Column B. Determine the percentage of the maximum base that you wish for each product and enter the amount of sugar base that you wish for each group of products in Column D. The total of the percentage figures in Column D must not be more than 100%. *Example:* X applies for bases to operate a bakery. The major portion of his business will be devoted to making sweet goods. He will also make bread and rolls. He decides that he wants a base of 25,380 lbs. of sugar per year for his sweet goods operation. This is 90% of the maximum base allowed by SRA for this product. Since 90% of his total operation is to be given over to the production of sweet goods, he can not apply for more than 10% of the maximum amount allowed for bread and rolls, or a base of 1,280 lbs. of sugar. He therefore makes the following entries in Item 8: In Column A he writes "Bread and rolls only;" in Column B he makes no entry; in Column C he writes "1,280 lbs.;" and in Column D, "90%." On the next line, in Column A, he writes "General baking products;" in Column B he makes no entry; in Column C he writes "25,380 lbs.;" in Column D, "10%." The total of the percentage figures therefore equals 100%.

(c) *Combined industrial-institutional user operation.* Give the information required in Items 8 and 12. The total of the percentage figures in Column D for Item 8 and Column C for Item 12 must not be more than 100%. *Example:* Z wishes to operate an establishment manufacturing candy and serving fruitades. He decides that he wants a base of 23,475 lbs. of sugar annually for making candy. This is equal to 75% of the maximum base allowed. He therefore enters in Item 8, Column A "Candy," in Column C, "23,475 lbs.," and in Column D "75%." Since 75% of his business will be given over to the manufacture of candy, his monthly base for serving fruitades cannot exceed 25% of the maximum base for this item, or 100 lbs., (25% of 400 lbs. equals 100 lbs.). He therefore enters in Item 12, Line 5, Column B, "100 lbs." and in Column C, "25%." The combined total of the percentage figures in Items 8 and 12 therefore equals 100%.

GROUPS OF PRODUCTS

1 Bread and rolls only
2 General baking products (excluding bread and rolls)
3 Ice cream, ices, sherbets, frozen custards (excluding mixes used for any of these products)
4 Bottled beverages (non-alcoholic)
5 Candy
6 Caramel popcorn
7* Mayonnaise
8* Salad dressing
9* Baking mixes
10* Fruit compote
11* Gelatins, puddings, powdered desserts (a) in powder form (b) in prepared form
12* Insecticides
13* Jams, jellies, marmalades, preserves, fruit butters
14* Meat spreads
15* Peanut butter
16* Pharmaceuticals (a)* cough drops, (b) cough syrups, (c) general
17* Sauces (for meat, fish, poultry, etc.)
18* Spaghetti, macaroni, and noodle products packed in sauce
19* Stews (Brunswick, etc.)
20* Flavoring extracts
21* Glaced fruit for baking purposes
22* Pickles, relishes, etc.
23* Shredded sweetened cocoanut
24* Syrups (a) table, except chocolate (b) chocolate (c) concentrated (liquid or powder)
25* Maraschino cherries
26* Other—Specify

*Limited to consumer size packages as shown in GRO 19.

Product	Package size	Amount of sugar base requested per year	Percent of maximum base for each group of products for which sugar is requested
A	B	C	D
		//	Total %

9 Give below the estimated hourly capacity of your operation for each type of product that you expect to make. *Example:* Bread and rolls, 30 lbs. per hour; bottle beverages 20 cases per hour, etc.

Group(s) of products	Estimated hourly capacity

10 Report in Column A the name of each major piece of sugar using equipment to be used in actual production of finished products in your operation. *Example:* For a bakery operation, list ovens, mixers, etc.; for beverage operation, list washers and filling machines; for candy, list kettles, enrobers, etc.; for ice cream, list freezers; for doughnuts, list frying kettles and frying machines, etc.

Report in Column B the type, size and/or capacity of the equipment listed in Column A.

Example:

Column A	*Column B*
Mixer	40 quart
Filler	CEM 14 spout
Freezer	5 gal. batch type.

In Columns C and D—Place a check mark (✓) indicating whether the equipment is on hand or to be acquired.

Name of equipment	Type, size and/or capacity of equipment	On hand (check)	To be acquired (check)
A	B	C	D

11 Describe the type of premises you will occupy. *Example:* Home bakery—Kitchen operation. Candy operation—Shop 15' x 20' in rear of store.

Description: _____

_____

Do not write in this space—To be filled in by SRA Branch Office

Industrial User—Give the information indicated for the comparable establishment selected. Enter in the space provided the base(s) granted.

COMPARABLE ESTABLISHMENT(S)

Name		Name	
Address		Address	
Product(s) made by comparable establishment	Amount of annual base	Product(s) made by comparable establishment	Amount of annual base

Product	Amount of sugar base granted

NOTE: Applications for bases for "Other" or those not listed in Item 8 must be forwarded by the SRA Branch Office to the Washington Office. Before forwarding such applications be sure that the information on the comparable establishment(s) is filled in. Applications for "Other" must also include the information that the product(s) are to be packaged in consumer sizes for direct consumer use only.

PART III—INSTITUTIONAL USER

12 *Instructions:* Refreshment bases may be granted for institutional user establishment for the service of one or more types of refreshment services listed below in Column A. If you will serve only one type of refreshment read the instructions designated (a); more than one, read (b); combined industrial-institutional use, read (c). *Obtain from your SRA branch office the maximum bases allowed for each type of refreshment.*

(a) *One type of refreshment service*—Select in Column A the type of refreshment you will serve. Enter in Column B the amount of sugar base you wish and in Column C write 100%.

(b) *More than one type of refreshment service*—Select in Column A the types of refreshments you will serve. Determine the percent of the maximum base that you wish for each type of refreshment service and enter this percentage figure in Column C. In Column B enter the amount of sugar base requested per month for each type of refreshment. If your operation is confined to institutional use of sugar, the total of the percentage figure in Column C must not be more than 100%. *Example:* Y wishes to prepare and serve snow balls. He will also serve candy floss. The major portion of business will consist of the preparation and service of snow balls. He decides that he wants a base of 75 lbs. per month for snow balls. Since 75% of his total operation is to be given over to snow balls, he cannot apply for more than 25% of the maximum amount allowed for candy floss, or a base of 50 lbs. per month. He therefore makes the following entries. In Line 2, Column B he writes "75" and in Column C "75%" in Line 11, Column B he writes "50 lbs." and in Column C, "25%." The total of the percentage figures in Column C therefore equals 100%.

(c) *Combined industrial-institutional user operation*—Refer to the instructions in Part II for this type of operation.

	Types of refreshments to be served	Amount of sugar base requested per month (pounds)	Percent of maximum base for each type of refreshment service for which sugar is requested
	A	B	C
1	General fountain service (cannot be combined with 3, 5, or 7)		
2	Snow balls or snow cones		
3	Fruit juices, vegetable juices		
4	Ice cream, sherbets, or frozen custard		
5	Coffee, tea, lemonade or orangeade		
6	Alcoholic beverages		
7	Carbonated beverages		
8	Incidental refreshment base for establishments with meal service base*		
9	Caramel popcorn		
10	Candied apples		
11	Candy floss		
12	Other (specify)		
		Total lbs.	Total %

*Cannot be combined with any other type of refreshment service.

13 PREMISES AND EQUIPMENT

a Describe briefly the premises, equipment that you now have.

b Are these sufficient to start operation? Yes ☐ No ☐
If "No," list the other necessary premises and equipment that you need.

14 What is or will be the seating capacity of your establishment? Number of persons

15 b If on a seasonal basis, state the period that establishment will be in operation.
_____ Period

15 a Will the establishment be operated on a year-round or on a seasonal basis (*check one*) ☐ Year-round ☐ Seasonal

16 How many servings of refreshments do you expect to make during your first 30 days of operation? Number of servings

Do not write in this space—To be filled in by SRA Branch Office

Institutional User—Give the information indicated for the comparable establishment selected. Enter in the space provided refreshment base(s) granted.

COMPARABLE ESTABLISHMENT(S)			
Name		Name	
Address		Address	
Refreshments served by comparable establishment	Amount of sugar base	Refreshments served by comparable establishment	Amount of sugar base

Type of refreshment(s)	Amount of sugar base granted

NOTE: Applications for bases for "Other" (item 11, line 12) must be forwarded by the SRA Branch Office to the Washington Office. Before forwarding such application be sure that the information of the comparable establishment has been filled in.

Application is ☐ Granted ☐ Denied	Date	SRA branch office	State	Signature

I certify that the above statements are true and correct to the best of my knowledge and belief.

Sign here _____ _____
(Name of applicant) (Date)

A WILLFULLY FALSE CERTIFICATION IS A CRIMINAL OFFENSE

SEC. 4.6 *Quotas established for branch offices.*

Branch Office	Industrial base quota (pounds)	Institutional refreshment base quota (pounds)
	Annually	*Monthly*
Hartford, Conn	1,665,005	5,015
Augusta, Maine	770,675	2,321
Boston, Mass	4,009,594	12,076
Concord, N. H	440,920	1,323
Providence, R. I	680,741	2,050
Montpelier, Vt	308,520	929
Baltimore, Md	3,045,224	9,171
Newark, N. J	4,019,496	12,106
New York City, N. Y	7,371,992	22,203
Syracuse, N. Y	4,180,627	12,591
Philadelphia, Pa	5,523,369	16,650
Pittsburgh, Pa	3,290,041	9,909
Indianapolis, Ind	3,306,280	9,958
Louisville, Ky	2,510,624	7,561
Detroit, Mich	5,309,783	15,992
Cleveland, Ohio	3,336,257	10,048
Cincinnati, Ohio	2,851,619	8,588
Charleston, W Va	1,732,454	5,218
Birmingham, Ala	2,673,003	8,050
Miami, Fla	2,075,949	6,252
Atlanta, Ga	3,013,997	9,077
Jackson, Miss	2,001,005	6,027
Raleigh, N. C	3,347,499	10,082
Columbia, S. C	1,783,667	5,372
Memphis, Tenn	2,786,668	8,393
Richmond, Va	2,781,672	8,378
Little Rock, Ark	1,723,712	5,191
Wichita, Kans	1,441,422	4,342
New Orleans, La	2,340,751	7,050
Kansas City, Mo	1,403,950	4,229
St. Louis, Mo	2,124,663	6,399
Oklahoma City, Okla	1,972,276	5,940
Houston, Tex	1,543,847	4,650
San Antonio, Tex	1,527,608	4,601
Dallas, Tex	3,182,623	9,585
Omaha, Nebr	1,176,621	3,544
Fargo, N. Dak	764,429	2,302
Sioux Falls, S. Dak	674,496	2,031
Milwaukee, Wis	2,871,604	8,649
Chicago, Ill	4,288,045	12,915
Springfield, Ill	3,088,941	9,303
Des Moines, Iowa	2,185,868	6,583
St. Paul, Minn	2,104,677	6,339
Denver, Colo	1,032,979	3,112
Boise, Idaho	350,988	1,057
Helena, Mont	474,645	1,429
Albuquerque, N. Mex	489,633	1,475
Salt Lake City, Utah	590,808	1,779
Cheyenne, Wyo	228,081	681
Phoenix, Ariz	577,069	1,737
Los Angeles, Calif	4,685,250	14,111
San Francisco, Calif	3,759,691	11,323
Reno, Nev	131,152	395
Portland, Oreg	1,381,468	4,161
Seattle, Wash	1,527,608	4,601
Spokane, Wash	442,169	1,332

NOTE: Area quotas as set forth in this section will continue in effect for the same area even though the Branch Office having jurisdiction over such area is discontinued.

ARTICLE V—APPEALS

SEC. 5.1 *Appeals.* Any person may appeal from any action of the Branch Office or the Regional Office adverse to such person. Such appeal shall be made in accordance with the provisions of Article XXIII of Third Revised Ration Order 3.

ARTICLE VI—DEFINITIONS

SEC. 6.1 *Definitions.* (a) "Washington Office" means the national headquarters of the Sugar Rationing Administration, Department of Agriculture, Washington, D. C.

(b) "Branch Office" means a branch office of the Sugar Rationing Administration, Department of Agriculture.

(c) The terms "allotments" "allotment period" "allowances" "base" when used with respect to industrial users and the terms "industrial user" and "industrial user establishment" have the meaning which they have in Third Revised Ration Order 3.

(d) The terms "allotment", "allotment period" "base" when used with respect to institutional users and the terms "institutional user" "institutional user establishment" and "refreshment service allotment" have the meaning which they have in Revised General Ration Order 5.

(e) "Members of his immediate family" means the wife, husband, mother, father, son, daughter, brother or sister of the applicant.

This order shall become effective this 21st day of May 1947.

NOTE: The reporting and record-keeping requirements of this order have been approved by the Bureau of the Budget in accordance with Federal Reports Act of 1942.

Issued this 15th day of May 1947.

CLINTON P ANDERSON,
Secretary of Agriculture.

[F. R. Doc. 47-5059; Filed, May 23, 1947; 5:03 p. m.]

[3d Rev. R. O. 3,[1] Amdt. 46]

PART 707—RATIONING OF SUGAR

SUGAR

A rationale for this amendment has been issued simultaneously herewith and has been filed with the Division of the Federal Register.

Third Revised Ration Order 3 is amended in the following respects:

1. Section 17.1 (b) (3) is amended to read as follows:

(3) A transferee of such user or his successor may apply under the provisions of this section.

2. Section 17.3 (c) is amended to read as follows:

(c) A transferee of such person or his successor may apply under the provisions of this section.

3. Section 17.7 (c) is amended to read as follows:

(c) A transferee of such person or his successor may apply under the provisions of this section.

4. A new section 17.8 is added to read as follows:

SEC. 17.8 *Certain persons may apply for a base or an adjustment in base.* (a) The following persons may apply for a base or adjustment in base under the provisions of this section:

[1] 11 F. R. 177, 14281.

(1) Any registered industrial user who used sugar during the base period and whose sugar base, less any adjustment granted under the provisions of section 17.7, is lower than it would have been if his sugar base had been established on the basis of the capacity of the plant as of April 20, 1942, may apply for an adjustment in such base.

(2) Any person who used sugar-containing products in the manufacture of other products for sale or transfer between January 1, 1941 and April 20, 1942, may apply for a base, or for an increase in his base, if the amount of sugar contained in such sugar-containing products is less than the sugar base computed under the provisions of this section on the basis of the capacity of the plant as of April 20, 1942.

(b) Application shall be made on SRA Form R–1235 and the applicant must give all of the information required by the form. The application must be filed:

(1) At the Sugar Branch Office for the place where the industrial user establishment is registered if the application is for an adjustment in base of a registered industrial user establishment;

(2) With the Sugar Branch Office serving the area in which the applicant's establishment is located if:

(i) He does not have a registered establishment and the application covers only one establishment;

(ii) He has one establishment already registered and wishes to register separately the establishment for which application is made. (If the applicant desires to register more than one establishment and desires to register them separately, a separate application must be filed for each such establishment)

(3) With the Sugar Branch Office serving the area in which the applicant's principal office is located, if:

(i) The application covers more than one establishment and the applicant desires to register such establishments together; or

(ii) If he has more than one establishment already registered and they are registered together; or

(iii) If he has one establishment already registered and wishes to register the establishment for which application is made with it.

(c) From the information given on SRA Form R–1235 the capacity of the plant as of April 20, 1942, will be computed. For the purposes of this computation, "Capacity of the plant" means the maximum amount in units, e. g., cases, pounds, etc., of products that could be produced per hour on April 20, 1942, using all of the equipment normally used for the production of such product in the way such equipment was used on that date. In determining capacity of machinery, the manufacturer's rated capacity must be used where available. The following formula, adjusted for each individual case, will be used in computing the base or adjustment in base to be established on the basis of the capacity of the plant as of April 20, 1942;

(1) The capacity (as defined above) multiplied by the sugar content equals the capacity in pounds of sugar per hour;

(2) The capacity of sugar in pounds per hour multiplied by the number of hours per normal work week in 1941 for that industry, multiplied by 52 equals the capacity of the plant in pounds of sugar per year;

(3) Capacity of the plant in pounds of sugar per year multiplied by the figure representing the lowest percent of operation of a substantial number of firms in the industry equals the base which would be established on the basis of the capacity of the plant as of April 20, 1942. (However, if sugar-containing products were used in the base period, the amount determined herein will be reduced by the amount of sugar contained in such products)

NOTE: A similar formula is used in determining the capacity as of April 20, 1942 for using sugar-containing products, rather than sugar in producing products.

(d) The amount of adjustment, if any, to be granted under the provisions of this section shall be determined as follows:

(1) The amount by which the capacity base of the plant as of April 20, 1942, for using sugar or sugar-containing products, as determined in paragraph (c) exceeds the amount of his present base (excluding the amount of any adjustment received under section 17.7), or

(2) If the applicant does not have a sugar base, the amount by which the capacity base of his plant for using sugar-containing products as of April 20, 1942, as determined in paragraph (c) exceeds the amount of sugar used in sugar-containing products between January 1, 1941 and April 20, 1942.

(e) A person may not receive a base or adjustment under this section with respect to:

(1) His use of jams, jellies, preserves, marmalades or fruit butters as a sugar-containing product for the manufacture of any other product;

(2) His use of equipment for the production of jams, jellies, preserves, marmalades or fruit butters;

(3) His use of a sugar-containing product for which a provisional allowance may be obtained in making his product; and

(4) His use of equipment for the production of a sugar-containing product for which a provisional allowance may be obtained.

(f) A Sugar Branch Office may not act on an application filed under this section but must send the application, together with all other information received, including the entire file, to the Regional Office for decision.

(g) Any person who has received a base under the provisions of General Ration Order 19 and who is eligible for a base or an adjustment in base under this section, must give up the base which was established for him under the provisions of General Ration Order 19 before he may receive a base or adjustment in base under this section.

This amendment shall become effective May 21, 1947.

NOTE: The reporting and record-keeping requirements of this amendment have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

Issued this 14th day of May 1947.

N. E. DODD,
Acting Secretary of Agriculture.

Rationale Accompanying Amendment No. 46 to Third Revised Ration Order 3

Proposed amendment. 1. This amendment deletes the provision that a transferee of the person who had the industrial user establishment on April 20, 1942 may not apply for an adjustment under section 17.1 (b) or section 17.3 unless: (1) he obtained the establishment by inheritance or will; (2) the change in ownership is only as to the form of the business organization; (3) he is a member of the immediate family of the transferor who was the owner or part owner of the establishment on April 20, 1942; or (4) one or more of the owners of the establishment at the time of application for an adjustment is a person who had an ownership interest in the establishment continuously from April 20, 1942 to the date of application.

2. Section 17.7 is similarly amended by deleting the restriction that a transferee may not apply for an adjustment under the provisions of that section.

3. A new section 17.8 is added which provides that any registered industrial user whose sugar base, less any adjustment granted under the provisions of section 17.7, is lower than it would have been if his sugar base had been established on the basis of the capacity of the plant as of April 20, 1942, may apply for an adjustment in base and any person who used sugar containing products in the manufacture of other products between January 1, 1941 and April 20, 1942 may apply for a sugar base if the amount of sugar in such sugar-containing products is less than the sugar base computed under this section on the basis of the capacity of the plant as of April 20, 1942. The amount of sugar base or the amount of adjustment in sugar base to be granted to these persons is computed on the same basis as adjustments are granted to persons who invested in productive equipment during the base period or who invested in productive equipment during the war for the purpose of manufacturing sugar-containing products for the armed forces and other designated agencies.

4. A person who used jams, jellies, preserves, marmalades or fruit butters or used a sugar-containing product for which a provisional allowance may be obtained in making his product or who made jams, jellies, preserves, marmalades or fruit butters or any product for which a provisional allowance may be obtained may not receive a base or adjustment in base for such products under the provisions of this action.

5. Application for a base or adjustment in base under this section may be made on SRA Form R–1235 at the Branch Office of the Sugar Rationing Administration.

Reasons for amendment. This amendment is issued in conjunction with General Ration Order 19, the order establishing bases for new sugar businesses,

and implements the provisions contained in that order to provide for hardship and insufficient base period history adjustments under the requirements of the Sugar Control Extension Act of 1947. The reasons for the adoption of the type of adjustment, as provided by this amendment, and the justification for this type of adjustment under the express terms of the act, are fully explained in the preamble to General Ration Order 19 which is issued simultaneously with this amendment.

However, the exclusion from this adjustment provision of manufacturers who used or made jams or jellies in making their product needs further clarification herein. During 1944, manufacturers of preserves, jams, jellies, etc., were encouraged to increase the over-all supply of such items and in order to provide for such increase in supply in these items, were permitted to receive a provisional allowance of sugar for the production of fruit spreads. This meant that such persons were able to operate their plants at full capacity without restrictions as to the amount of sugar which they could obtain for this purpose. The present sugar base for such manufacturers is established on the amount of sugar used in producing these items for civilians in 1941 or the amount of sugar used in producing these items for civilians in 1944 plus 50% of the amount of sugar used in 1944 for making these products for exempt agencies, whichever is greater. Since such manufacturers were able to operate in 1944 at a level commensurate with the capacity of their plant and were not restricted in their operations, as were other industrial users, by the sugar rationing regulations; it is not necessary to grant them an adjustment based on the capacity of the plant as of April 20, 1942.

[F. R. Doc. 47-5058; Filed, May 23, 1947; 5:03 p. m.]

Chapter VIII—Office of International Trade, Department of Commerce

Subchapter B—Export Control

PART 800—ORDERS AND DELEGATIONS OF AUTHORITY

ORDER PROHIBITING EXPORTATION OF CIGARETTES TO GERMANY

It is hereby ordered, That, effective May 26, 1947, notwithstanding the provisions of any of the general licenses contained in Part 802 of this chapter, no cigarettes or tobacco products shall be exported to Germany from the United States. The provisions of this order shall not apply to shipments by the United States armed forces.

(Sec. 6, 54 Stat. 714, 55 Stat. 206, 56 Stat. 463; 58 Stat. 671, 59 Stat. 270, 60 Stat 215; 50 U. S. C. App. and Sup. 701, 702; E. O. 9630, September 27, 1945, 10 F R. 12245)

Dated: May 22, 1947.

FRANCIS MCINTYRE,
Deputy Director for Export Control, Commodities Branch.

[F. R. Doc. 47-4979; Filed, May 26, 1947; 8:58 a. m.]

PART 802—GENERAL LICENSES

ORDER PROHIBITING EXPORTATION OF CIGARETTES TO GERMANY

CROSS REFERENCE: For exception to the provisions of certain general licenses contained in this part, see Part 800 of this chapter, *supra,* prohibiting exportation of cigarettes or tobacco products to Germany from the United States.

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

Chapter IV—Coast Guard: Navigational Aids

[CGFR 47-28]

PART 402—AIDS TO NAVIGATION

MISCELLANEOUS AMENDMENTS

Pursuant to the provisions of section 4 of the Administrative Procedure Act (June 11, 1946, 60 Stat. 237) a notice of a public hearing to consider regulations for lights, signals and colors for mooring buoys was published in the FEDERAL REGISTER, dated April 12, 1947 (12 F R. 2410) The proposed amendments were published in that Notice, and since no comments were submitted and no one attended the public hearing, I therefore, by virtue of the authority vested in me by the act of June 17, 1910, as amended (33 U. S. C. 713, 759) prescribe the following amendments to the regulations to become effective on the thirty-first day after the date of publication in the FEDERAL REGISTER.

Part 402 is amended by the addition of two new sections, reading as follows:

§ 402.01 *Basis and purpose.* Pursuant to the authority in the act of June 17, 1910, as amended (33 U. S. C. 713, 759) the regulations in this part are prescribed to provide a standard by which devices relating to the general safety of navigation are established and maintained, also to provide an efficient, uniform and economic administration of this service.

§ 402.17 *Mooring buoys: lights, signals and colors.* The approval of lights, signals and colors for properly authorized mooring buoys (33 U. S. C. 403) must be obtained, prior to establishment, from the District Commander of the Coast Guard district in which the structure will be situated. Applications for such approval shall be submitted on Coast Guard Form 2554 in accordance with the procedure set forth in § 402.4, insofar as they are applicable to the particular case.

(34 Stat. 324 as amended; 33 U. S. C. 759)

Dated: May 21, 1947.

[SEAL] E. H. FOLEY, Jr.,
Acting Secretary of the Treasury.

[F. R. Doc. 47-4959; Filed, May 26, 1947; 8:59 a. m.]

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

PART 162—LIST OF ORDERS CREATING AND MODIFYING GRAZING DISTRICTS

COLORADO GRAZING DISTRICT NO. 8

CROSS REFERENCE: For order affecting the tabulation contained in § 162.1, see F R. Doc. 47-4945 under Department of the Interior, Bureau of Reclamation, in the Notices section, *infra,* amending Departmental Order of November 25, 1941, which established Colorado Grazing District No. 8.

TITLE 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

PART 16—RAILROAD RADIO SERVICE

FREQUENCIES

In the matter of amendment to § 16.61 of the Commission's rules and regulations governing Railroad Radio Service.

At a meeting of the Federal Communications Commission held at its offices in Washington, D. C., on the 8th day of May 1947;

It appearing, that, pursuant to proceedings in Docket No. 6651, a final decision was rendered by the Commission on May 25, 1945, allocating a stated number of channels in the frequency spectrum from 25,000 to 30,000,000 kilocycles to the various nongovernment radio services, and providing that further reports allocating specific frequencies in these bands would be made at a later date; and

It further appearing, that on July 12, 1946, the Commission issued its proposal for the final allocation of specific frequencies in the band 152–162 megacycles; that copies of this proposal were served upon all interested parties; and

It further appearing, that written comments, briefs and recommendations were filed by interested parties, and oral argument was held on February 3, 1947; and

It further appearing, that some of the recommendations were adopted and others were rejected; and that on March 20, 1947, a final decision was rendered by the Commission allocating specific frequencies in the band 152–162 megacycles to the various nongovernment radio services; and

It further appearing, that a part of the frequency allocations made by the report of March 20, 1947 is at variance with existing provisions of § 16.61 of the Commission's rules and regulations governing Railroad Radio Service, which enumerates the frequencies available for use of railroad radio stations; wherefore it is necessary that § 16.61 be amended to conform with the frequency allocations in the Commission's report of March 20, 1947;

It is ordered, That effective June 15, 1947,[1] § 16.61 of the Commission's rules

[1] See F. R. Doc. 47-4968, *infra.*

and regulations governing Railroad Radio Service be and it is hereby amended to read as follows:

§ 16.61 *Frequencies.* The following frequencies (in megacycles) are allocated to the following classes of stations in the Railroad Radio Service:

(a) To train radio stations primarily for stations on board railroad rolling stock and for land stations primarily for use in communicating with stations on board railroad rolling stock:

158.37	159.09	159.81	160.53	161.25
158.43	159.15	159.87	160.59	161.31
158.49	159.21	159.93	160.65	161.37
158.55	159.27	159.99	160.71	161.43
158.61	159.33	160.05	160.77	161.49
158.67	159.39	160.11	160.83	161.55
158.73	159.45	160.17	160.89	161.61
158.79	159.51	160.23	160.95	161.67
158.85	159.57	160.29	161.01	161.73
158.91	159.63	160.35	161.07	161.79
158.97	159.69	160.41	161.13	161.85
159.03	159.75	160.47	161.19	161.91

These frequencies may also be used on a secondary basis for intercommunication between adjacent land stations provided interference is not caused to communications involving mobile train radio stations.

(b) To yard and terminal and to railroad utility radio stations:

(1) All frequencies in paragraph (a) of this section except 158.43, 159.09, 159.57, 159.81, 160.53 and 161.01 Mc, provided interference is not caused to train radio stations. Each application requesting assignment of one or more of these six frequencies for use by yard and terminal or by railroad utility stations shall show why interference will not be caused to train radio stations.

(2) Specific frequencies to be designated within the following television channels: 44–50; 54–60; 60–66; 66–72; 76–82; 186–192; 192–198; 198–204; 204–210, and 210–216 Mc. Frequencies so designated will be assigned on a mutually noninterfering basis subject to such additional limitations and restrictions as may be deemed necessary.

(c) The assignment of any of the frequencies enumerated in paragraphs (a) and (b) of this section may be restricted in use to one or more specified geographic areas, and may be authorized for use by one or more licensees.

(d) The frequency or frequencies immediately available for assignment to any particular area or railroad may be ascertained by communicating with the Secretary of the Federal Communications Commission Washington 25, D. C.

(Sec. 303 (e) 303 (f) 48 Stat. 1082; 47 U. S. C. 303 (e) 303 (f))

By the Commission.

[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 47-4967; Filed, May 26, 1947; 9:25 a. m.]

[Docket No. 7853]

PART 18—INDUSTRIAL, SCIENTIFIC AND MEDICAL SERVICE

ORDER WITH RESPECT TO MEDICAL DIATHERMY AND INDUSTRIAL HEATING EQUIPMENT AND NOTICE OF PROPOSED RULE MAKING WITH RESPECT TO MISCELLANEOUS EQUIPMENT

At a session of the Federal Communications Commission at its offices in Washington, D. C., on May 8, 1947;

The Commission having under consideration its proposed rules "In the Matter of Promulgation of Rules and Regulations Governing Medical Diathermy Equipment and Industrial Heating Equipment" (Docket No. 7853) which were the subject of hearing and oral argument on December 18 and 19, 1946; and

The Commission having under study and consideration the testimony and other evidence received during the said hearing and oral argument, and having revised the said proposed rules in certain respects upon the basis of such study and consideration, including among such revisions the addition of certain provisions which would make the said rules applicable in part to miscellaneous equipment as defined in § 18.2 (d) thereof; and

The Commission having determined that the said rules as revised should be adopted in final form insofar as they are applicable to the operation of medical diathermy equipment and industrial heating equipment, and that the said rules should be adopted as proposed rules insofar as they would be applicable to the operation of miscellaneous equipment as defined in § 18.2 (d) of such rules; now, therefore, *It is hereby ordered,* That:

1. The rules set forth in the annexed Part 18 of the Commission's rules and regulations be, and the same are hereby, adopted as final insofar as they are applicable to the operation of medical diathermy and industrial heating equipment, effective June 15, 1947.[1]

2. Pursuant to sections 4 (i), 301, and 303 of the Communications Act, the rules set forth in the annexed Part 18 of the Commission's rules and regulations be, and the same are hereby, adopted as proposed rules insofar as the rules therein are applicable to the operation of miscellaneous equipment as defined in § 18.2 (d) of the annexed rules.

Interested parties are given until May 31, 1947,[1] to submit such briefs, comments, or statements with respect to the said proposed rules as they may deem appropriate for consideration by the Commission in a determination whether rules with respect to miscellaneous equipment should be adopted and if so whether such rules should be made final in their present form or whether changes in the said rules should be made before they are made final.

GENERAL

AUTHORITY: §§ 181.1 to 18.51, inclusive, issued under secs. 4 (i), 301, 303, 48 Stat. 1066, 1031, 1032; 47 U. S. C. 154 (i), 301, 303.

GENERAL

§ 18.1 *Statement of basis and purpose.* (a) Section 301 of the Communications Act of 1934, as amended, provides for the control by the Federal Government over all the channels of interstate and foreign radio communication and further provides, in part, that no person shall use or operate apparatus for the transmission of energy, communications, or signals by radio when the effects of such operation extend beyond state lines or cause interference with the transmission or reception of energy, communications, or signals, of any interstate or foreign character by radio, except under and in accordance with the Communications Act and a license granted under the provisions of that act. The operation in the industrial, scientific and medical service of medical diathermy equipment, industrial heating equipment and miscellaneous equipment of a type which emits radiofrequency energy upon frequencies within the radio spectrum constitutes a serious source of interference to authorized radio communication services operating upon the channels of interstate and foreign communication unless precautions are taken which will prevent the creation of any substantial amount of such interference.

[1] See F. R. Doc. 47-4968, *infra.*

(b) The following rules and regulations are designed to have a twofold effect:

(1) They set forth the conditions under which the operation of the equipment in question is not regarded as a cause of interference to the authorized radio communication services and is therefore not required to be operated pursuant to license under the Communications Act.

(2) They provide a procedure for the licensing of medical diathermy, industrial heating and miscellaneous equipment which in operation constitute a source of interference to authorized communication services, directly affect the control of the Federal Government over the channels of interstate and foreign radio communication, and are therefore required to be licensed.

§ 18.2 *Definitions.* For purposes of the provisions of this part of the rules and regulations the following definitions in the industrial, scientific, and medical service shall be applicable.

(a) "Radiofrequency energy" shall include electromagnetic energy generated at any frequency in the radio spectrum between 10 kilocycles and 30,000 megacycles.

(b) "Medical diathermy equipment" shall include any apparatus (other than surgical diathermy apparatus designed for intermittent operation with low power) which utilizes a radiofrequency oscillator or any other type of radiofrequency generator and transmits radiofrequency energy used for therapeutic purposes.

(c) "Industrial heating equipment" shall include any apparatus which utilizes a radiofrequency oscillator or any other type of radiofrequency generator and transmits radiofrequency energy used for or in connection with industrial heating operations utilized in a manufacturing or production process.

(d) "Miscellaneous equipment" shall include apparatus other than that defined in or excepted in paragraphs (b) and (c) of this section which uses radiofrequency energy for heating, ionization of gases, or other purposes in which the action of the energy emitted is directly upon the work load and does not involve the use of associated radio receiving equipment.

§ 18.3 *When license is required.* Any medical diathermy equipment, industrial heating equipment or miscellaneous equipment which complies with the provisions of §§ 18.11 to 18.17, inclusive, 18.21 to 18.24, inclusive, or 18.31 for operation without a license may be operated without a station license. A license is required for any such equipment operated otherwise.

§ 18.4 *Full information; inspection by Commission representatives.* Upon request by the Commission the owner or operator of any medical diathermy equipment, industrial heating equipment, or miscellaneous equipment shall promptly furnish the Commission with such information as may be requested concerning the operation of such equipment. The premises in which medical diathermy, industrial heating, or miscellaneous equipment are operated, and any license or certification required hereby, shall be available for inspection by representatives of the Commission at all reasonable hours.

OPERATION WITHOUT A LICENSE; MEDICAL DIATHERMY EQUIPMENT

§ 18.11 *Operation within assigned frequency bands.* A station license is not required for the operation of medical diathermy equipment within assigned frequency bands provided such operation meets the following conditions:

(a) Such operation shall be confined to one or more of the following bands of frequencies and in accordance with the general conditions of operation set out in the guarantee or certification required by paragraphs (c) or (d) of this section.

Assigned band	Center-frequency of channel.	Tolerance (from center frequency)
	Mc	*Kc*
13.6525–13.6675 mc	13.66	±7.5
27.160–27.480 mc	27.32	±160
40.960–41.000 mc	40.98	±20

[1] By public notice and order dated December 26, 1946, the Commission also announced the availability of the frequency 2450 mc±50 mc as being available for industrial, scientific and medical purposes. It was expressly stated in the said public notice and order that such use of the frequency 2450 mc would be governed by the conditions set forth in that order and set out as Appendix A hereto rather than Part 18 of the Commission's rules.

(b) Such operation may be without regard to the type or power of emissions being radiated. Spurious and harmonic radiations on frequencies other than those specified above shall be suppressed so that such radiations do not exceed a strength of 25 microvolts per meter at a distance of 1000 feet or more from the medical diathermy equipment causing such radiations.

(c) With respect to equipment for which type approval has been received from the Commission in accordance with §§ 18.14 to 18.16, inclusive, hereof there shall be affixed to each unit of equipment operated in accordance with paragraphs (a) and (b) of this section, or posted in the room in which such operation occurs, a dated certificate of a competent engineer, or a dated certificate or name plate of the manufacturer of the equipment; setting forth the F. C. C. type approval number for such equipment, the general conditions under which such equipment should be operated, and certifying that the equipment involved may reasonably be expected to meet the requirements of this section under the described conditions of operation for a period of at least three years. The certification required in this section shall describe with certainty the apparatus covered thereby.

(d) The owners or operators of equipment which has not received type approval but which is manufactured for operation without a license and designed to meet the technical requirements set forth under § 18.11 (a) and (b) shall have posted in the room in which such equipment is operated a dated certificate of a competent engineer, or a dated certificate or name plate of the manufacturer of the equipment, setting forth the general conditions under which such equipment should be operated and certifying that the equipment involved may reasonably be expected to meet the requirements of this section for a period of at least three years under the described conditions of operation. The certification required by this section shall describe with certainty the apparatus covered thereby, and shall include a brief statement of the egineering tests upon which such certification is based and the results thereof. Field intensity measurements in such tests shall be made in accordance with § 18.13.

(e) No regular renewal of certification is required for equipment covered in paragraph (c) of this section. The certification required in paragraph (d) of this section shall be renewed at intervals of three years. Notwithstanding the above provisions with respect to renewal of certification, the certification required by paragraph (c) or (d) of this section shall be renewed for particular equipment by such date as the Commission may specify if the Commission has reason to believe that the operation of such equipment may be inconsistent with provisions of these rules or the source of interference to radio communication.

§ 18.12 *Operation outside of assigned frequency bands.* A station license is not required for the operation of medical diathermy equipment outside of the frequency bands specified in § 18.11 (a) provided such operation is in accordance with the general conditions of operation set out in the certification required in paragraph (c) of this section, and meets the following conditions:

(a) The equipment used in such operation shall be provided with a rectified and filtered plate power supply, power line filters, and shall be operated in a completely shielded room or space.

(b) The emission of radio frequency energy generated by such operation, including spurious and harmonic emissions, shall not exceed a strength in excess of 15 microvolts per meter at a distance of 1000 feet or more from the medical diathermy equipment on frequencies other than those specified in § 18.11 (a)

(c) There shall be affixed to each unit of equipment so operated, or posted in the room in which such operation occurs, a dated certification of a competent engineer, or a dated certificate or name plate of the manufacturer of the equipment setting forth the general conditions under which such equipment should be operated and certifying that under the described conditions of operation the requirements of this section may reasonably be expected to be met for a period of at least three years. The certification required by this section shall describe with certainty the equipment covered thereby, and shall include a brief statement of the engineering tests upon which the certification is based and the results thereof. Field intensity measurements in such tests shall be made in accordance with the provisions of § 18.13.

(d) The certification required in paragraph (c) of this section shall be renewed every three years; *Provided,* That

such certification shall be renewed for particular equipment by such earlier date as the Commission may specify if the Commission has reason to believe that the operation of such equipment may be inconsistent with the provisions of these rules or a source of interference to radio communication.

§ 18.13 *Measurement of field intensity.* Measurements to determine the field intensity of radio frequency energy generated by medical diathermy equipment shall be made in accordance with standard engineering procedures and shall include the following:

(a) An approved type of field intensity meter using loop pickup shall be used for measurements on frequencies below and including 18 mc, and such a meter with a doublet antenna shall be used for measurements for frequencies above 18 mc. Appropriate techniques shall be resorted to for measurements in the microwave region of the spectrum.

(b) The field intensity at 1,000 feet from the medical diathermy equipment, or at any other point at which it becomes necessary to determine such intensity, shall be determined by measurements at approximately 100 feet intervals along 5 radials approximately 72° apart, provided that additional measurements shall be taken when necessary in particular cases. An average curve shall be drawn through the points obtained for each radial and then either (1) the field intensity at 1,000 feet taken from the curve or (2) the curve extended to the 1,000 feet point to obtain the field intensity at that point. If points of measurement along a radial are such that marked changes of field intensity over short distances are noted because of standing waves, multipaths, etc., continuous measurements shall be made along any such radial at points 100 feet apart in order to obtain average values for such points.

(c) The field intensities specified herein refer to the maximum field intensity regardless of polarization, measured at a height of 12 feet above the immediate terrain or at such lower height at which the field intensity may exceed that at 12 feet.

(d) If due to the location of equipment in a large city, or for some other reason, measurements as outlined above are impractical because of shadows or shielding of large buildings or other objects, every effort should be made to obtain necessary measurements at clear locations such as atop adjacent buildings, etc., with the measurements corrected to the height specified in paragraph (c) of this section in accordance with best available engineering information.

§ 18.14 *Submission of equipment for type approval tests.*[2] (a) Manufacturers of medical diathermy equipment designed to operate within the frequency bands specified in § 18.11 (a) may submit units of such equipment to this Commission for type approval upon the grant of request therefor made in writing by the manufacturer to the Secretary of the Commission. Such a request will not be granted unless at least 5 units of the model to be submitted are scheduled for manufacture and the manufacturer agrees to bear all forwarding and return charges in connection with the shipment of the unit to be tested between the Federal Communications Commission, Laboratory Division, Laurel, Maryland, and the manufacturer.

(b) Any such equipment which is submitted will be tested and a certificate of type approval will be issued to the manufacturer for each type of equipment which meets the following tests:

(1) The frequency at all times during the tests below shall be within the middle 70% of the frequency bands specified in § 18.11 (a)

(i) From a cold start the machine will be operated continuously at full load for 6 hours, except that machines classified as portable will be subject to a 2 hour test.

(ii) From a cold start the machine will be operated at no load for 5 minutes and then the frequency deviation determined over a normal treatment cycle. A treatment cycle will be simulated by artificial varying loads and varying settings of the resonance and other operating controls. Similar treatment cycle tests will be conducted after periods of continuous full load operations up to six hours (2 hours for portable operation) to determine the maximum deviation. The number of such tests normally will be determined by the results of test a. *Provided, however* That equipment designed to operate within the frequency bands set forth in § 18.11 (a) may be granted type approval regardless of frequency stability, provided such equipment meets the other requirements hereof and contains a power cut-off mechanism which is effective in rendering the machine inoperative when the deviation from the assigned center frequency exceeds 70% of the tolerance provided for.

(2) The equipment must be designed to prevent the emission of spurious and harmonic radiations to the extent required in § 18.11 (b)

(3) The electrical and mechanical components of the machine and their installation must be such as to give reasonable assurance of compliance with the requirements of permissible frequency tolerance for at least 5 years.

(4) In the case of withdrawal of a certificate of type approval as hereinafter provided for the manufacturer shall make no further sale of equipment under such certificate.

§ 18.15 *Effect of certificate of type approval.* A certificate of type approval constitutes a recognition that on the basis of the tests made the equipment appears to have the capability of functioning in accordance with the provisions of § 18.11 (a) and (b) provided such equipment is properly constructed, maintained and operated, and no change whatsoever is made in the construction of equipment sold under the Certificate of Type Approval issued by the Commission except on specific approval by the Commission to any changes made.

§ 18.16 *Withdrawal of certificate of type approval.* A certificate of type approval may be withdrawn if the type of equipment for which it was issued proves defective in service and under usual conditions of maintenance and operation such equipment cannot be relied on to meet the conditions set forth in this part for the operation of the type of equipment involved.

§ 18.17 *Interference from equipment operated in accordance with §§ 18.11 and 18.12.* In the event of interference to any authorized radio service caused by the equipment operated in accordance with the provisions of §§ 18.11 and 18.12, such steps as may be necessary to remedy such interference condition shall promptly be taken.

OPERATION WITHOUT A LICENSE; INDUSTRIAL HEATING EQUIPMENT

§ 18.21 *Operation within assigned frequencies.* A station license is not required for the operation of industrial heating equipment within assigned frequency bands provided such operation meets the following conditions.

(a) Such operation shall be confined to one or more of the following bands of frequencies and in accordance with the general conditions of operation set out in the certification required by paragraph (c) of this section:

Assigned band[1]	Center frequency of channel	Band width of channel (from center frequency)
	Mc	*Kc*
13.0625-13.0675 mc	13.06	±7.5
27.160-27.460 mc	27.32	±160
40.660-41.000 mc	40.93	±50

[1] See footnote to table in § 18.11 (a).

(b) Such operation may be without regard to the type or power of emissions being radiated. However, spurious and harmonic radiations shall be suppressed so that such radiations do not exceed a strength of 10 microvolts per meter at a distance of one mile or more from the radiating equipment. Filtering between the radiating equipment and power lines must be provided to the extent necessary to prevent the radiation of energy from power lines on frequencies outside of the assigned bands with a strength in excess of 10 microvolts per meter at a distance of one mile or more from the industrial heating equipment, when measured at a distance of 50 feet from the power line.

(c) There shall be affixed to each unit of equipment so operated, or posted in the room in which such operation occurs, a dated certificate of a duly qualified engineer, or a dated certificate or name plate of the manufacturer of the equipment, setting forth the general conditions under which such equipment should be operated, and certifying that the equipment involved may reasonably be expected to meet the requirements of this section under the described conditions of operation for a period of at least

[2] Medical diathermy equipment operated on the frequency 2450 mc as indicated in note 2, *supra*, will be eligible for type approval upon a determination by the Laboratory Division of compliance with the requirements of the public notice and order referred to in footnote to table in § 18.11 (a).

three years. The certification required by this section shall describe with certainty the apparatus covered thereby, and shall include a brief statement of the engineering tests upon which the certification is based and the results thereof. Field intensity measurements in such tests shall be made in accordance with the provisions of § 18.23.

(d) The certification required in paragraph (c) of this section shall be renewed for particular equipment, by such date as the Commission may specify if the Commission has reason to believe that the operation of such equipment may be inconsistent with the provisions of these rules or the source of interference to radio communication.

§ 18.22 *Operation outside of assigned frequency bands.* A station license is not required for the operation of industrial heating equipment outside of the frequency bands specified in § 18.21 (a), provided such operation is in accordance with the general conditions of operation set out in the guarantee or certificate required in paragraph (b) of this section, and meets the following conditions:

(a) The equipment used in such operation shall be operated within a room or space with sufficient shielding and power line filtering so that the emissions of radiofrequency energy generated by such operation, including spurious and harmonic emissions will not exceed a strength of 10 microvolts per meter at a distance of one mile from the industrial heating equipment on frequencies other than those specified in § 18.21 (a) The radiofrequency field from power lines due to radiofrequency energy originating with such equipment at distances beyond one mile must be less than 10 microvolts per meter when measured at one mile from such equipment and 50 feet from the power line.

(b) There shall be affixed to each unit of equipment so operated or posted in the room in which such operation occurs, a dated certificate of a duly qualified engineer, or a dated certificate or name plate of the manufacturer of such equipment, setting forth the general conditions under which such equipment should be operated and certifying that the equipment involved may reasonably be expected to meet the requirements of this section under the described conditions of operation for at least three years. The certification required by this section shall describe with certainty the apparatus covered thereby, and shall include a brief statement of the engineering tests upon which the certification is based and the results thereof. Field intensity measurements in such tests shall be made in accordance with the provisions of § 18.23.

(c) The certification required in paragraph (b) of this section shall be renewed for particular equipment by such date as the Commission may specify if the Commission has reason to believe that the operation of such equipment may be inconsistent with the provisions of these rules or source of interference to radio communication.

§ 18.23 *Measurement of field intensity.* Measurements to determine the field intensity of radiofrequency energy generated by industrial heating equipment shall be made in accordance with standard engineering procedures and shall include the following:

(a) An approved type of field intensity meter employing loop pickup shall be used for measurements on the frequencies of 18 mc and below, and such a meter with a doublet antenna shall be used for measurements on frequencies above 18 mc. Appropriate techniques shall be resorted to for measurements in the micro-wave region of the spectrum.

(b) Prior to the determination of the maximum field intensity at one mile, a sufficient number of measurements shall be made in the vicinity of the industrial heating equipment to enable plotting of the polar radiation pattern. Where conditions permit, these measurements shall be made at intervals of not more than 20 degrees in azimuthal directions and at distances not exceeding 1000 feet from the equipment. The measurements so obtained shall be reduced to the equivalent field intensities at 1000 feet.

(c) The measurements for the maximum field intensity at one mile shall be made along the radial corresponding to the lobe of maximum radiation as determined from the polar radiation pattern. If two or more lobes of radiation of approximately the same intensity are present, measurements to determine field intensity shall be made along the several radials for such lobes. Where possible, field intensity measurements shall be made along each radial at intervals of not greater than 500 feet and an average curve drawn for measured field intensity in microvolts per meter versus distance in feet. Where necessary, the average curve shall be extended to show the extrapolated field intensity at one mile. In those cases where it is impractical to conduct measurements along the radial of maximum radiation a sufficient number of field intensity measurements will be made to clearly indicate the magnitude of the radiation field in the sector containing the lobe of maximum radiation.

(d) Where there is evidence of radiation from power lines field intensity measurements shall be made at not less than three points along the power line located approximately one mile from the industrial heating equipment causing such radiation and to include a length of power line not less than 500 feet. One point of measurement shall lie within the one-mile distance and the other beyond. At each of these points at least three measurements of field intensity shall be made along a line normal to the power line and out to a distance from the power line not exceeding 50 feet.

(e) The field intensities specified herein refer to the maximum field intensity, regardless of polarization, measured at a height of 12 feet above the immediate terrain or at such lower height at which the field intensity may exceed that at 12 feet.

§ 18.24 *Interference from equipment operated in accordance with §§ 18.21 or 18.22.* In the event of interference to any authorized radio service from equipment operated in accordance with the provisions of §§ 18.21 and 18.22, steps to remedy such interference condition shall promptly be taken.

OPERATION WITHOUT A LICENSE; MISCELLANEOUS EQUIPMENT

§ 18.31 *Miscellaneous equipment.* The operation without a license of miscellaneous equipment, as defined in § 18.2 (d) generating radiofrequency power of 500 watts or less, shall be in compliance with the provisions of these rules for medical diathermy apparatus. Operation of such equipment generating radiofrequency power in excess of 500 watts shall be in compliance with the requirements for medical diathermy apparatus except that the maximum radiated field permitted shall be increased as the square root of the ratio of the generated power to 500 watts; *Provided,* That the radiated field shall in no case exceed the fields permitted industrial heating apparatus; *Provided further,* That equipment used in predominantly residential areas and operating on frequencies below 1,000 mc shall not be permitted the increase in field with power as indicated above, but shall be subject to the restrictions contained herein for diathermy equipment. Miscellaneous equipment, as defined in § 18.2 (d) may be type approved under procedures similar to that for diathermy equipment with such changes in the above procedure as may be required because of the nature of the partcular equipment involved.

OPERATION FOR WHICH A LICENSE IS REQUIRED

§ 18.41 *When a license is required.* (a) No medical diathermy equipment, industrial heating equipment or miscellaneous equipment which does not comply with §§ 18.11 to 18.17, inclusive, or 18.21 to 18.31, inclusive, shall be operated except pursuant to a station license issued by the Commission authorizing such operation.

(b) Whenever the Commission on complaint or on its own motion determines that medical diathermy equipment, industrial heating equipment or miscellaneous equipment is not in fact operating in compliance with the provisions of §§ 18.11 to 18.17, inclusive, or 18.21 to 18.31, inclusive, and so advises the operator of such equipment, further operation of such equipment without a station license shall be unlawful unless within 10 days of the receipt of such notice, or within such further time as the Commission may for good cause allow, the operator of such equipment shall file with the Commission a certificate of a competent engineer stating that the equipment is now capable of complying with the requirements of the rules.

§ 18.42 *Showing required.* A station license for the operation of medical diathermy equipment, industrial heating equipment or miscellaneous equipment will be granted upon proper application therefor in accordance with the provisions of this part and a showing that in the light of the following considerations the public interest, convenience, and necessity would be served by such a grant: (a) The purpose for which the equipment sought to be licensed will be used; (b) the reasons why the equipment in-

volved may not be operated in compliance with the provisions of this part for the operation of such equipment without a license; and (c) the nature and extent of interference that may be caused to authorized communication services by the operation of such equipment.

§ 18.43 *Applications for station licenses.* Each applicant for a station license authorizing the operation of medical diathermy, industrial heating equipment, or miscellaneous equipment, or requesting the modification or renewal of such a license, shall file with the Commission in Washington, D. C., three copies of each application on the appropriate form designated by the Commission and a like number of any exhibits and other papers incorporated therein and made a part thereof. Only the original copy need be sworn to. Application for a license shall be made up on the appropriate form prescribed by the Commission, and separate application should be made for each unit of equipment for which a license is sought. Application for modification or renewal of a license shall also be upon appropriate form prescribed by the Commission.

§ 18.44 *Full information.* Each application for a license authorizing the operating of medical diathermy, industrial heating equipment or miscellaneous equipment shall contain full and complete information concerning all matters and things required to be disclosed by the application form.

§ 18.45 *License period.* Each station license authorizing the operation of medical diathermy, industrial equipment or miscellaneous equipment will expire at the hour of 3 a. m. and will be issued for a normal license period of five years or such other period as the Commission may specify upon consideration of the facts in a particular case. Each such license shall be non-transferable.

§ 18.46 *Renewal of license.* Unless otherwise directed or permitted by the Commission, applications for renewal of a station license for the operation of medical diathermy, industrial heating equipment or miscellaneous equipment shall be filed with the Commission upon prescribed forms at least 60 days prior to the expiration date of such license.

§ 18.47 *Station license, posting of.* The original of each station license shall be posted in the room in which the equipment is operated. Licenses covering equipment not used in a fixed place shall be attached to the equipment itself.

§ 18.48 *Operator requirements.* Equipment for which a station license is issued pursuant to the provisions of this part of the Commission's rules and regulations may be operated by persons who do not hold an operator license or permit issued by this agency.

§ 18.49 *Cessation of operation pursuant to license.* If any equipment for which a license has been issued hereunder shall cease to be operated pursuant to such license, or is transferred, sold, assigned, leased, loaned, stolen, destroyed, or otherwise removed from the possession of the licensee, the licensee shall within five days of such occurrence notify the Commission thereof and, where possible, include in such notification the name and address of the recipient of such equipment.

§ 18.51 *Existing equipment.* The provisions of this part shall not be applicable for a period of five years from the effective date hereof to the operation of equipment, the manufacture and assembly of which is completed prior to July 1, 1947, *Provided,* That the foregoing provisions of this section shall be applicable only if in the event of interference to authorized radio services resulting from the operation of equipment manufactured prior to July 1, 1947 such steps as may be suitable under the circumstances are promptly taken to eliminate such interference.

By direction of the Commission.

[SEAL] T. J. SLOWIE,
Secretary.

APPENDIX A

PUBLIC NOTICE AND ORDER WITH RESPECT TO PROMULGATION OF RULES AND REGULATIONS GOVERNING MEDICAL DIATHERMY EQUIPMENT AND INDUSTRIAL HEATING EQUIPMENT

Public notice. By public notice of September 20, 1946, the Commission announced proposed rules and regulations governing the operation of medical diathermy equipment and industrial heating equipment and specified November 6, 1946, for oral argument and hearing on such proposed rules and regulations. In its public notice of September 20, 1946, the Commission also stated that in the oral argument and hearing referred to above consideration would be given to the question whether an additional frequency band should be assigned for the operation of medical diathermy equipment and industrial heating equipment in the 3000 megacycle region of the spectrum. By subsequent notice dated October 9, 1946, the said oral argument and hearing was postponed to December 18, 1946, and in a further notice of November 14, 1946, particular attention was called to the fact that consideration would be given to allocation of a frequency in the 3000 megacycle region of the spectrum for industrial, medical, and scientific purposes and all interested parties were invited to submit comments and participate in the scheduled oral argument and hearing.

The oral argument and hearing referred to above was held on December 18 and 19, 1946, and upon the basis of the evidence received at that time the Commission has determined that the public interest would be served by a grant of the request for allocation of space in the 3000 megacycle region of the spectrum which would be available for industrial, medical, and scientific purposes. Accordingly, the Commission has adopted the order set out below providing for allocation of the frequency 2450 megacycles for such purposes and requiring that emissions radiated in the course of operation on that frequency be confined within the range 2400-2500 megacycles.

The regulations under consideration in Docket 7858 with respect to operation of industrial heating and medical diathermy equipment in the 13, 27, and 40 megacycle regions of the spectrum are inapplicable to this operation on 2450 megacycles and detailed regulations with respect to operation on that frequency have not yet been promulgated. However, rather than postpone the availability of the ferquency in question for general use until such standards have been determined, the Commission is making the frequency 2450 megacycles available for immediate nonexclusive use without a license for industrial, medical, and scientific purposes in compliance with certain conditions set forth in the order. It should be noted particularly that operation at this time rather than at a later date after the promulgation of engineering standards is expressly made subject to such regulations as the Commission may in the future decide to be appropriate with respect to operation upon the frequency in question. Persons who make use of that frequency now are accordingly placed on notice that such regulations may be adopted and be applicable to their operation.

Order. At a meeting of the Federal Communications Commission in its offices in Washington, D. C. on December 26, 1946,

The Commission having under consideration a request for assignment of a frequency in the 3000 megacycle region of the radio spectrum for industrial, medical, and scientific purposes without a license, and

The Commission on December 18 and 19, 1946, having held a public hearing, after due notice to all interested parties, to receive evidence upon the question whether such a band should be assigned for such purposes; and

The Commission having considered the evidence presented during such hearing and having determined upon such consideration that the public interest, convenience, and necessity would be served by such an allocation;

Now, therefore, *It is hereby ordered,* That the frequency 2450 megacycles be, and the same is hereby, assigned, for industrial, medical, and scientific purposes upon a nonexclusive basis. Operation for such purposes upon the frequency 2450 megacycles may be conducted without a license only upon the following conditions:

(1) The emissions of radiofrequency energy resulting from such operation shall be confined to that portion of the spectrum between 2400-2500 megacycles.

(2) The energy radiated and the band width of emissions of all industrial, medical and scientific equipment operated as provided for herein shall be reduced to the greatest extent practicable. No interference shall be caused to authorized communication services from spurious or harmonic radiations. In the event of such interference from spurious or harmonic radiations, operation of the equipment causing such interference shall cease and shall not be resumed until steps necessary to eliminate such interference have been taken.

(3) Operation upon the assigned frequency as specified above shall be subject to such future regulations as may be found by the Commission to be appropriate.

By direction of the Commission.

T. J. SLOWIE,
Secretary.

[P. R. Doc. 47-4966; Filed, May 26, 1947; 9:25 a. m.]

[Docket No. 7853]

PART 16—RAILROAD RADIO SERVICE

PART 18—INDUSTRIAL, SCIENTIFIC AND MEDICAL SERVICE

ORDER EXTENDING EFFECTIVE DATE[1]

In the matter of amendment of § 16.61 of the Commission's rules and regulations governing Railroad Radio Service.

In the matter of promulgation of rules and regulations relating to Industrial, Scientific and Medical Service (Part 18)

[1] See F. R. Docs. 47-4966 and 47-4967, *supra.*

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 22d day of May 1947;

The Commission having, on May 8, 1947, adopted orders in the above-captioned matters to become effective on June 15, 1947, and also adopted a notice of Proposed Rule Making in Docket No. 7858 providing for the submission of comments by May 31, 1947; and

It appearing, that, in order to effectuate said actions of the Commission by publication in the FEDERAL REGISTER it is necessary to extend said dates;

It is ordered, That, the effective dates of said orders be extended to June 30, 1947, and that the date for submission of comments with respect to said Notice of Proposed Rule Making be extended to June 5, 1947.

[SEAL] FEDERAL COMMUNICATIONS COMMISSION,
T. J. SLOWIE,
Secretary.

[F. R. Doc. 47-4968; Filed, May 26, 1947; 9:25 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Production and Marketing Administration

[7 CFR, Ch. IX]

[Docket No. AO-184]

HANDLING OF MILK IN NASHVILLE, TENN., MARKETING AREA

PROPOSED MARKETING AGREEMENT AND ORDER

Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.) and in accordance with the applicable rules of practice and procedure, as amended (7 CFR Cum. Supp., 900.1 et seq., 10 F R. 11791, 11 F R. 7737; 12 F. R. 1159) notice is hereby given of a public hearing to be held at the Andrew Jackson Hotel, Nashville, Tennessee, beginning at 9:00 a. m., c. s. t., June 23, 1947.

This public hearing is for the purpose of receiving evidence with respect to a proposed marketing agreement and order, regulating the handling of milk in the Nashville, Tennessee, marketing area, the provisions of which are hereinafter set forth, and any modifications thereof. The proposed marketing agreement and order have not received the approval of the Secretary of Agriculture, and at the hearing evidence will be received relative to all aspects of the marketing conditions which are dealt with by the proposed marketing agreement and order and any modifications thereof. The provisions of the proposals for a marketing agreement and order, heretofore filed with the undersigned, are as follows:

Marketing Agreement and Order Proposed by the Nashville Milk Producers, Inc., Nashville, Tennessee

SECTION 1. *Definitions.* The following terms shall have the following meanings:

(a) "Act" means Public Act No. 10, 73d Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended.

(b) "Secretary" means the Secretary of Agriculture or any officer or employee of the United States who is authorized to exercise the powers and to perform the duties of the Secretary of Agriculture.

(c) "Department of Agriculture" means the United States Department of Agriculture or such other Federal agency as may be authorized to perform the price reporting functions of the United States Department of Agriculture.

(d) "Person" means any individual, partnership, corporation, association, or any other business unit.

(e) "Nashville marketing area," hereinafter called the "marketing area," means all the territory within the corporate limits of the cities of Nashville, and Belle Meade, and the territory within the civil districts Nos. 2, 3, 4, 5, 6, 7, 8, 10, 11, 12, and 13, all located in Davidson County, Tennessee.

(f) "Cooperative association" means any cooperative marketing association of producers which the Secretary determines to be qualified pursuant to the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act," and to be engaged in making collective sales or marketing of milk or its products for the producers thereof.

(g) "Producer-handler" means any person who is both a producer and a handler and who receives no milk from other producers.

(h) "Delivery period" means the calendar month or the total portion thereof during which this order is in effect.

(i) "Fluid milk plant" means the premises and the portions of the building and facilities used in the receipt and processing or packaging of milk, all, or a portion of which is disposed of from such plant within the delivery period as Class I milk in the marketing area, but not including any portion of such building or facilities used for receiving or processing milk or any milk product required by the appropriate health authorities in the marketing area to be kept physically separate from the receiving and processing or packaging of milk for disposition as Class I milk in the marketing area.

(j) "Producer" means any person who produces, under a dairy farm inspection permit issued by the appropriate health authority in the marketing area, milk which is:

(1) Received at a plant from which milk or cream is disposed of in the marketing area for human consumption as fluid milk or fluid cream;

(2) Received at a plant approved by the appropriate health authority in the marketing area to furnish milk or cream to a plant described under subparagraph (1) of this paragraph; or

(3) Diverted from any plant described under either subparagraph (1) or subparagraph (2) of this paragraph to any other milk distributing or milk manufacturing plant, including any plant described under subparagraphs (1) or (2) of this paragraph: *Provided,* That any such milk so diverted shall be deemed to have been received at the plant from which it was diverted.

(k) "Handler" means:

(1) Any person who receives milk, produced under a dairy farm inspection permit issued by the appropriate health authority in the marketing area, at a plant described in paragraphs (j) (1) or (j) (2) of this section; and

(2) Any cooperative association of producers with respect to milk diverted from a plant described under subparagraphs (1) or (2) of paragraph (j) of this section to any milk distributing or milk manufacturing plant not operated by a handler, for the account of such association.

(l) "Non-handler" means any person who is not a handler but who operates a milk manufacturing, processing, or bottling plant.

(m) "Other source milk" means all skim milk (including reconstituted skim milk) and butterfat not derived from producer milk;

(1) Contained in milk, skim milk, or cream, or

(2) Used to produce any milk product. "Other source milk" shall include milk, skim milk, cream, or any milk product received at a fluid milk plant under an emergency permit issued by the appropriate health authorities in the marketing area.

(n) "Producer milk" means milk produced by one or more producers under the conditions set forth in paragraph (j) of this section.

SEC. 2. *Market Administrator*—(a) *Designation.* The agency for the administration hereof shall be a market administrator who shall be a person selected by the Secretary. Such person shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

(b) *Powers.* The market administrator shall have the power to:

(1) Administer the terms and provisions hereof,

(2) Report to the Secretary complaints of violations hereof,

(3) Make rules and regulations to effectuate the terms and provisions hereof, and

(4) Recommend to the Secretary amendments hereto.

(c) *Duties.* The market administrator, in addition to the duties hereinafter described, shall:

(1) Within 45 days following the date on which he enters upon his duties execute and deliver to the Secretary a bond, effective as of the date on which he enters upon his duties as market administrator and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary.

(2) Employ and fix the compensation of such persons as may be necessary to enable him to administer the terms and provisions hereof;

(3) Pay, out of the funds provided by section 10;

(i) The cost of his bond and of the bonds of those of his employees who handle funds entrusted to the market administrator,

(ii) His own compensation, and

(iii) All other expenses, except those incurred under section 11 hereof, which will necessarily be incurred by him in the maintenance and functioning of his office and in the performance of his duties;

(4) Keep such books and records as will clearly reflect the transactions provided for herein, and, upon request by the Secretary, surrender the same to his successor or to such other person as the Secretary may designate;

(5) Publicly disclose to handlers and producers, unless otherwise directed by the Secretary, the name of any person who, within 5 days after the day upon which he is required to perform such acts, has not made;

(i) Reports pursuant to section 3 (a), or

(ii) Payments pursuant to section 9;

(6) Furnish such information and verified reports as the Secretary may request, and submit his books and records to examination by the Secretary at any and all times;

(7) Prepare and disseminate for the benefit of producers, consumers, and handlers, such statistics and information concerning the operations hereunder as do not reveal confidential information;

(8) Audit all reports and payments by each handler by inspection of each handlers records and of the records of any person upon whose utilization the classification of milk depends;

(9) Publicly announce prices and butterfat differentials for each delivery period, as follows:

(i) On or before the 6th day after the end of each delivery period the class prices and butterfat differentials computed pursuant to section 5; and

(ii) On or before the 10th day after the end of each delivery period, the uniform prices computed pursuant to section 8 (b) and the butterfat differential to be paid pursuant to section 9 (f)

SEC. 3. *Reports of handlers*—(a) *Periodic reports.* On or before the 6th day after the end of each delivery period, each handler, who purchases or receives milk from producers, with respect to all skim milk and butterfat contained in milk, skim milk, cream, and milk products which were, during each delivery period received from (1) producers; (2) other handlers; (3) own farm production; (4) any other sources, shall report to the market administrator in the detail and on forms prescribed by him as follows:

(i) The receipts at each plant from producers who are not handlers;

(ii) The receipts at each plant from any other handler;

(iii) The receipts at each plant from producer-handlers;

(iv) The receipts at each plant from such handler's own farm production;

(v) The receipts at each plant from any other source;

(vi) The utilization of all skim milk and butterfat disposed of; and

(vii) The quantity of skim milk and butterfat on hand at the beginning and end of the delivery period.

(b) *Reports of producer-handlers and handlers who receive no milk from producers.* Producer-handlers and handlers who receive no milk from producers shall make reports to the market administrator at such time and in such manner as the market administrator may require.

(c) *Reports as to producers.* Each handler shall within 20 days after the end of the delivery period, submit to the market administrator his producer pay roll for such delivery period which shall show for each producer (1) the total pounds of milk delivered with the average butterfat test thereof, and (2) the net amount of such handler's payments to such producer together with the prices, deductions, and charges involved.

(d) *Other reports.* On or before the day a handler receives "other source" milk, he shall report to the market administrator his intentions to receive such milk.

(e) *Verification of reports.* The market administrator shall verify all reports and payments of each handler by audit of such handler's records, and the records of any other handler or person upon whose utilization the classification of milk depends. Each handler shall keep adequate records of receipts and utilization of skim milk and butterfat and shall, during the usual hours of business, make available to the market administrator or his representative such records and facilities as will enable the market administrator to:

(1) Verify the receipts and utilization of all skim milk and butterfat and in the case of errors or omissions, ascertain the correct figures.

(2) Weigh, sample, and test for butterfat content, milk and milk products;

(3) Verify payments to producers; and

(4) Make such examinations of operations, equipment, and facilities as the market administrator deems necessary.

SEC. 4. *Classification of milk*—(a) *Basis of classification.* All skim milk and butterfat received in milk, (including producer milk diverted) skim milk, cream, and milk products purchased or received by a handler at a fluid milk plant shall be reported by the handler and shall be classified by the market administrator in the classes set forth in paragraph (b) of this section.

(b) *Classes of utilization.* Subject to the conditions set forth in paragraphs (a), (d), and (e) of this section, the classes of utilization shall be as follows:

(1) Class I milk shall be all skim milk and butterfat disposed of for consumption in the form of (i) milk, skim milk (including reconstituted skim milk) cream, sweet or sour (including any mixture of cream and milk or skim milk) buttermilk, and flavored milk drinks, and (ii) all skim milk and butterfat not specifically accounted for as Class II milk.

(2) Class II milk shall be all skim milk and butterfat specifically accounted for as disposed of (i) in a milk product other than those specified in (1) of this paragraph, (ii) inventory variations, and (iii) as actual plant shrinkage not in excess of 1 percent of the total receipts of skim milk and butterfat from producers, hereinafter known as allowable shrinkage.

(c) *Responsibility of handlers.* In establishing the classification of milk as required in paragraph (b) of this section the burden rests upon the handler, who first receives or diverts milk from producers, to account for the skim milk and butterfat contained in such milk and to prove to the market administrator that such skim milk or butterfat should not be classified as Class I milk.

(d) *Transfers of milk and cream.* (1) Skim milk and butterfat shall be classified as Class I milk when disposed of in the form of any item specified in paragraph (b) (1) of this section by a handler (i) to other handlers who receive milk from producers: *Provided,* That if the market administrator is furnished with a statement signed by both the buying and the selling handler that such skim milk or butterfat was used to produce a Class II item, it shall be classified accordingly subject to verification by the market administrator; (ii) to a producer-handler; and (iii) to a handler who purchases or receives no producer milk.

(2) Skim milk and butterfat contained in skim milk, milk or cream when disposed of by a handler to a plant of a "non-handler" shall be Class I milk, except where during the delivery period ice cream, ice cream mix, evaporated or condensed milk, butter, milk powder, or cheese (including cottage cheese) is manufactured such milk shall be classified under paragraph (b) of this section according to its use at such latter plant; *Provided,* That, if such milk is disposed of more than 50 miles from the Nashville, Tennessee, City Hall it shall be classified Class I milk.

(e) *Correction of classification and reclassification of milk.* (1) The classification of any skim milk and butterfat shall be corrected by the market administrator if upon his audit it is found that such classification was reported incorrectly or incompletely by the handler.

(2) Any skim milk or butterfat reported by a handler as having been disposed of in any class which is found by the market administrator to have been redisposed of (whether in original or other form) in a different class by such handler, by other handler(s) or by any nonhandler(s) shall be reclassified by the market administrator in accordance with such latter use or disposition.

(f) *Computation of the milk in each class.* For each delivery period the market administrator shall correct for mathematical and other obvious errors the report submitted by each handler and shall compute on the basis of the corrected report the amount of milk disposed of in each class as defined in paragraph (b) of this section as follows:

(1) Determine the total pounds of milk received by adding into one sum the total pounds of skim milk and butterfat contained in the milk, skim milk, cream, and milk products received from all sources;

(2) Determine the total pounds of milk in Class I by adding into one sum the total pounds of skim milk and butterfat disposed of in each of the several products of Class I, and the total pounds of skim milk and butterfat unaccounted for or accounted for as actual plant shrinkage in excess of allowable shrinkage;

(3) Determine the total pounds of milk in Class II by (i) adding into one sum the pounds of skim milk and butterfat disposed of in each of the several products of Class II and (ii) the pounds of skim milk and butterfat accounted for as actual plant shrinkage not in excess of allowable shrinkage.

(g) *Allocation of milk classified.* The pounds of skim milk and butterfat remaining after making the following computations shall be the pounds in each class allocated to producer milk:

(1) Subtract from the pounds of skim milk and butterfat in Class II milk the pounds of allowable shrinkage pursuant to paragraph (b) (2) of this section;

(2) Subtract from the pounds of skim milk and butterfat in Class II the pounds of skim milk and butterfat which were received from sources other than producers, and other handlers: *Provided,* That if the receipts of skim milk or butterfat from other sources other than producers, and other handlers are greater than the remaining pounds of skim milk or butterfat in Class II an amount equal to the difference shall be subtracted from the pounds of skim milk or butterfat in Class I,

(3) Subtract from the remaining pounds of skim milk and butterfat in each class the pounds of skim milk and butterfat which were received from other handlers and allocated to each class pursuant to paragraph (d) (1) (i) of this section;

(4) Add to the remaining pounds of skim milk and butterfat in Class II the pounds subtracted pursuant to subparagraph (1) of this paragraph; or if the remaining pounds of skim milk and butterfat in both classes exceed the pounds of skim milk and butterfat in milk received from producers, subtract such excess from the remaining pounds in each class in series beginning with the lower price class;

(5) Add the pounds of skim milk and butterfat in each class and determine the percentage of butterfat for each class; and

(6) The result shall be known as the "net pooled milk" in each class.

SEC. 5. *Minimum prices*—(a) *Basic Class I formula price.* For each delivery period the basic formula price to be used in determining the prices of Class I milk shall be the highest prices per hundredweight of milk of 4.0 percent butterfat content computed by the market administrator pursuant to subparagraphs (1), (2) and (3) of this paragraph or paragraph (b) of this section;

(1) The arithmetical average of the basic (field) prices per hundredweight reported to have been paid or to be paid during such delivery period to farmers for milk containing 3.5 percent butterfat at each of the following listed plants or places for which prices are reported to the United States Department of Agriculture or to the market administrator;

Concern and Location

Borden Co., Black Creek, Wis.
Borden Co., Greenville, Wis.
Borden Co., Mt. Pleasant, Mich.
Borden Co., New London, Wis.
Borden Co., Orfordville, Wis.
Carnation Co., Berlin, Wis.
Carnation Co., Jefferson, Wis.
Carnation Co., Chilton, Wis.
Carnation Co., Oconomowoc, Wis.
Carnation Co., Richland Center, Wis.
Carnation Co., Sparta, Mich.
Pet Milk Co., Belleville, Wis.
Pet Milk Co., Coopervile, Mich.
Pet Milk Co., Hudson, Mich.
Pet Milk Co., New Glarus, Wis.
Pet Milk Co., Wayland, Mich.
White House Milk Co., Manitowoc, Wis.
White House Milk Co., West Bend, Wis.

To convert the price computed under subparagraph (1) of this paragraph to a 4.0 percent basis there shall be added $0.40 per hundredweight of milk.

(2) The price per hundredweight resulting from the following formula:

(i) Multiply the average wholesale price per pound of 92-score butter at Chicago for the delivery period as reported by the United States Department of Agriculture, by six (6)

(ii) Add 2.4 times the average weekly prevailing price per pound of "Twins" during the delivery period on the Wisconsin Cheese Exchange at Plymouth, Wisconsin: *Provided,* That if the price of "Twins" is not quoted on the Wisconsin Cheese Exchange the weekly prevailing price of "Cheddars" shall be deemed to be the prevailing price for "Twins" and shall be used in determining the price pursuant to this formula:

(iii) Divide by seven (7)

(iv) Add 30 percent thereof; and

(v) Multiply by 4.0.

(3) The price per hundredweight computed by the market administrator by adding together the plus values pursuant to subdivisions (i) and (ii) of this subparagraph:

(i) From the average wholesale price per pound of 92-score butter at Chicago, as reported by the Department of Agriculture for the delivery period, add 20 percent thereof and then multiply by 4.0; and

(ii) From the average of the carlot prices per pound of non-fat dry milk solids for human consumption, spray and roller process, f. o. b. manufacturing plants, as published for the Chicago area for the delivery period by the Department of Agriculture, including in such average the quotations published for any fractional part of the previous delivery period which were not published and available for the price determinations of such non-fat dry milk solids for the previous delivery period, deduct 3.0 cents, multiply by 8.5 and then multiply by 0.96.

(b) *Basic Class II formula price.* For each delivery period the basic formula price to be used in determining the prices of Class II milk shall be the arithmetical average of the basic (field) prices per hundredweight reported to have been paid or to be paid during such delivery period to farmers for milk containing 4.0 percent butterfat at each of the following listed manufacturing plants or places for which prices are reported to the United States Department of Agriculture or to the market administrator:

Concern and Location

Carnation Co., Murfreesboro, Tenn.
Borden Co., Lewisburg, Tenn.
Pet Milk Co., Mayfield, Ky.
Kraft Cheese Co., Gallatin, Tenn.
Wilson and Co., Murfreesboro, Tenn.
Giles County Dairy Products, Pulaski, Tenn.
Swift and Co., Lebanon, Tenn.

(c) *Class prices*—(1) *Class I milk.* The price for Class I milk shall be the Class I basic formula price plus $1.35: *Provided,* The Class I price shall not be less than $5.35 per hundredweight of milk 4.0 percent basis.

(2) *Class II milk.* The price for Class II milk shall be the Class II basic formula price plus $0.15.

(3) Prices set out in subparagraphs (1) and (2) of this paragraph are minimum prices and any handler may make payments in excess of the minimum price: *Provided,* That any payments so made shall be made to all producers delivering milk of the same grade and quality to that handler.

(d) *Butterfat differential to handlers.* If the average butterfat content of the milk disposed of by any handler as the net pooled milk in any class of utilization is more or less than 4.0 percent, there shall be added to, or subtracted from, as the case may be, the price for such class of utilization, for each one-tenth of one percent that such average butterfat test is above or below, respectively, 4.0 percent, an amount computed by the market administrator for each class of utilization as follows:

(1) *Class I milk.* Multiply by 1.4 the average wholesale price per pound of 92-score butter at Chicago, as reported by the Department of Agriculture for the delivery period, and divide the result by 10;

(2) *Class II milk.* Multiply by 1.2 the average wholesale price per pound of 92-score butter at Chicago, as reported by the Department of Agriculture for the delivery period, and divide the result by 10.

(e) *Emergency price provisions.* (1) Whenever the provisions hereof require the market administrator to use a specific price (or prices) for milk or for any milk product for the purpose of determining class prices or for any other purpose, the market administrator shall add to the specific price the amount of any subsidy or other similar payment being made by any Federal agency in connection with the milk or product associated with the price specified: *Provided,* That if for any reason the price specified is not reported or published as indicated, the

market administrator shall use the applicable maximum uniform price established by regulations of any Federal agency plus the amount of any such subsidy or other similar payment: *Provided further* That if the specified price is not reported or published and there is no applicable maximum uniform price, or if the specified price is not reported or published and the Secretary determines that the market price is below the applicable maximum uniform price, the market administrator shall use a price determined by the Secretary to be equivalent to or comparable with the price specified.

SEC. 6. *New producers.* Any producer who did not regularly sell milk during a period of 30 days next proceeding the effective date of this order for consumption in the marketing area as defined in section (1) (e) payments to such producers for the period beginning with the first regular delivery by such producer and continuing until the end of two full calendar months following the first day of the next succeeding calendar month, shall be made at the price for the lowest use classifications specified in section (4)

SEC. 7. *Application of provisions*—(a) *Handlers who receive no milk from producers.* Sections 4, 5, 8, 9, 10, and 11 shall not apply to the handling of milk by producer-handlers or by handlers whose sole source of supply are receipts from other handlers.

(b) *Producer-handlers.* Producer-handlers shall furnish to the market administrator for his verification, subject to review by the Secretary, evidence of their qualifications as producer-handlers pursuant to section 1 (g) as of the effective date hereof, and they shall furnish evidence of subsequent changes made in the manner of producing or distributing that milk that affects their qualification as producer-handlers.

(c) Milk received by a handler from his own farm production shall be considered as "producer milk."

(d) Milk received from handlers under any marketing agreement or order issued pursuant to the act for any other fluid milk marketing area shall be considered as "other source milk."

SEC. 8. *Determination of uniform prices to producers*—(a) *Computation of the value of the milk of each handler.* For each delivery period the market administrator shall compute the value of producer milk received by each handler in the following manner:

(1) Multiply the net pooled milk in each class computed pursuant to section 4 (g) (6) by the class prices computed pursuant to section 5 (c) subject to the differentials set forth in section 5 (d)

(2) Add an amount calculated by multiplying the applicable class prices by the pounds subtracted pursuant to section 4 (g) (4) and

(3) Add together the resulting amounts.

(b) *Computation of the uniform price.* The market administrator shall compute the uniform price per hundredweight of producer milk containing 4 percent of butterfat for each delivery period, as follows:

(1) Combine into one total the respective values computed pursuant to paragraph (a) of this section, for all handlers who made the report prescribed by section 3 (a) for such delivery period, except those in default of payments required pursuant to section 9 (c) for the preceding delivery period;

(2) Subtract, if the average butterfat content of all milk received from producers is in excess of 4 percent, or add, if such average butterfat content is less than 4.0 percent, an amount computed as follows: multiply the amount by which the average butterfat content of such milk varies from 4.0 percent by the butterfat differential computed pursuant to section 9 (f) and multiply the result by the total hundredweight of milk received from producers;

(3) Add an amount representing the unobligated balance in the producer-settlement fund;

(4) Divide the amount computed pursuant to subparagraph (3) of this paragraph by the total hundredweight of milk received from producers;

(5) Subtract from the figure computed pursuant to subparagraph (4) of this paragraph not less than 4 cents nor more than 5 cents per hundredweight for the purpose of retaining in the producer-settlement fund a cash balance to provide against errors in reports and payments or delinquencies in payment by handlers. This result shall be known as the uniform price for such delivery period for milk of producers containing 4 percent butterfat content f. o. b. fluid milk plant.

(c) *Announcement of uniform prices.* On or before the 10th day after the end of each delivery period the market administrator shall notify each handler of his uniform price computed pursuant to paragraph (b) of this section and the butterfat differentials pursuant to section 9 (f).

SEC. 9. *Payments to producers*—(a) *Time and method of payment.* (1) On or before the last day of each delivery period each handler shall make payment to each producer at not less than $3.00 per hundredweight for the milk received from each producer, delivering to such handler on that date, during the first 15 days of such delivery period.

(2) On or before the 15th day after the end of each delivery period, each handler shall make payment to each producer for milk received from him during the delivery period at not less than the uniform price per hundredweight computed by the market administrator pursuant to section 8 (b) subject to the following adjustments:

(i) The butterfat differential pursuant to paragraph (f) of this section,

(ii) Less payment made pursuant to subparagraph (1) of this paragraph,

(iii) Less marketing service deductions pursuant to section 11,

(iv) Less deductions authorized by the producer, and

(v) Any error in calculating payments to such individual producer for past delivery periods.

(b) *Producer-settlement fund.* The market administrator shall establish and maintain a separate fund known as the producer-settlement fund into which he shall deposit all payments made by handlers pursuant to paragraphs (c) and (e) of this section and out of which he shall make all payments pursuant to paragraphs (d) and (e) of this section: *Provided,* That payments to any handler shall be offset by payments due from such handler.

(c) *Payments to the producer-settlement fund.* On or before the 13th day after the end of each delivery period each handler shall pay to the market administrator the amount by which the total value of milk received by him from producers during the delivery period is greater than the amount of the minimum required to be made by such handler pursuant to paragraph (a) of this section.

(d) *Payments out of the producer-settlement fund.* On or before the 15th day after the end of each delivery period the market administrator shall pay to each handler for payment to producers the amount, if any, by which the total value of the milk received from producers by such handler is less than the amount of the minimum payments required to be made by such handler pursuant to paragraph (a) of this section. If at such time the balance in the producer-settlement fund is insufficient to make all payments pursuant to this paragraph the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available. No handler who on the 15th day after the end of each delivery period has not received the balance of payment due him from the market administrator shall be deemed to be in violation of paragraph (a) of this section if he reduces his payments to producers by not more than the amount of the reduction in payment from the producer-settlement fund. However, the handler shall make such balance of payment to those producers to whom it is due on or before the date for making payments pursuant to this paragraph next following that on which such balance of payment is received from the market administrator.

(e) *Adjustment of errors in payments.* Whenever verification by the market administrator of payments by any handler discloses errors made in payments to the producer-settlement fund pursuant to paragraph (c) of this section, the market administrator shall promptly bill such handler for any unpaid amount and such handler shall, within 15 days, make payment to the market administrator of the amount so billed. Whenever verification discloses that payment is due from the market administrator to any handler, pursuant to paragraph (d) of this section the market administrator shall, within 15 days, make such payment to such handler. Whenever verification by the market administrator of the payment by a handler to any producer for milk received by such handler discloses payment of less than is required by this section, the handler shall make up such payment not later than the time of making payment to producers next following such disclosure.

(f) *Butterfat differential to producers.* If, during the delivery period, any han-

dler has purchased or received from any producer, milk having an average butterfat content other than 4.0 percent, such handler in making the payments prescribed in paragraph (a) (2) of this section, shall add to the uniform price per hundredweight paid to such producer for each one-tenth of one percent of butterfat content in milk above 4.0 percent not less than, or shall deduct from the uniform price per hundredweight for each one-tenth of one percent of butterfat content in milk below 4.0 percent not more than an amount computed by the market administrator as follows: multiply by 1.2 the average wholesale price per pound of 92-score butter at Chicago, as reported by the Department of Agriculture for the delivery period, and divide the result by 10, and adjust to the nearest one-tenth of a cent.

(g) *Statement to producers.* In making the payments required by paragraph (a) (2) of this section, each handler shall furnish each producer with a supporting statement in such form that it may be retained by the producer, which shall show:

(1) The delivery period and the identity of the handler and of the producer;

(2) The total pounds and the average butterfat content of milk delivered by the producer;

(3) The minimum rate or rates at which payment to the producer is required under the provisions of paragraphs (a) and (f) of this section;

(4) The rate which is used in making the payment if such rate is other than the applicable minimum;

(5) The amount or the rate per hundredweight of each deduction claimed by the handler, including any deduction made pursuant to section 11, together with a description of the respective deductions; and

(6) The net amount of payment to the producer.

SEC. 10. *Expenses of administration.* As his pro rata share of the expense of the administration hereof, each handler, on or before the 15th day after the end of each delivery period, shall pay to the market administrator a sum not exceeding 6 cents per hundredweight with respect to all skim milk and butterfat received from producers except that the Secretary may prescribe a lesser rate.

SEC. 11. *Marketing service*—(a) *Deductions for marketing services.* Except as set forth in paragraph (b) of this section, each handler shall deduct an amount not exceeding 6 cents per hundredweight (the exact rate to be determined by the market administrator subject to review by the Secretary) from the payments made to producers pursuant to section 9 with respect to all milk received by such handler from producers during the delivery period and shall pay such deductions to the market administrator not later than the 15th day after the end of the delivery period. Such money shall be used by the market administrator to verify weights, samples, and tests of milk received by handlers from producers during the delivery period and to provide such producers with market information, such services to be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him.

(b) *Producers' cooperative associations.* In the case of producers for whom a cooperative association which the Secretary determines to be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act" is actually performing, as determined by the Secretary, the services set forth in paragraph (a) of this section, each handler shall make in lieu of the deductions specified in paragraph (a) of this section, such deductions from the payments to be made directly to such producers pursuant to section 9, as are authorized by such producers, and, on or before the 15th day after the end of each delivery period, pay over such deductions to the association rendering such services.

SEC. 12. *Effective time, suspension, and termination*—(a) *Effective time.* The provisions hereof or any amendments hereto shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated pursuant to paragraph (b) of this section.

(b) *Suspension or termination.* The Secretary shall suspend or terminate any or all of the provisions hereof, whenever he finds that it obstructs or does not tend to effectuate the declared policy of the act. This order shall, in any event, terminate whenever the provisions of the act authorizing it cease to be in effect.

(c) *Continuing power and duty of the market administrator.* If, upon the suspension or termination of any or all of the provisions hereof, there are any obligations arising hereunder, the final accrual or ascertainment of which requires further acts by any handler, by the market administrator, or by any other person, the power and duty to perform such further acts shall continue notwithstanding such suspension or termination: *Provided,* That any such acts required to be performed by the market administrator shall, if the Secretary so directs, be performed by such other person, persons, or agency as the Secretary may designate.

The market administrator, or such other person as the Secretary may designate (1) shall continue in such capacity until discharged by the Secretary; (2) from time to time account for all receipts and disbursements and deliver all funds or property on hand together with the books and records of the market administrator, or such person, to such person as the Secretary shall direct; and (3) if so desired by the Secretary execute such assignments or other instruments necessary or appropriate to vest in such person full title to all funds, property, and claims vested in the market administrator or such person pursuant thereto.

(d) *Liquidation after suspension or termination.* Upon the suspension or termination of any or all provisions hereof, the market administrator, or such person as the Secretary may designate shall, if so directed by the Secretary, liquidate the business of the market administrator's office, and dispose of all funds and property then in his possession or under his control, together with claims for any funds which are unpaid or owing at the time of such suspension or termination. Any funds collected pursuant to the provisions hereof, over and above the amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator or such person in liquidating and distributing such funds, shall be distributed to the contributing handlers and producers in an equitable manner.

SEC. 13. *Separability of provisions.* If any provisions hereof, or its application to any person or circumstances, is held invalid, the application of such provision, and of the remaining provisions hereof, to other persons or circumstances shall not be affected thereby.

SEC. 14. *Agents.* The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions hereof.

Proposal by Certain Handlers in the Nashville, Tennessee, Marketing Area

SEC. 1. *Definitions.* The following terms shall have the following meanings:

(a) "Act" means Public Act No. 10, 73d Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended.

(b) "Secretary" means the Secretary of Agriculture or any officer or employee of the United States who is authorized to exercise the powers and to perform the duties of the Secretary of Agriculture.

(c) "Department of Agriculture" means the United States Department of Agriculture or such other Federal Agency as may be authorized to perform the price reporting functions of the United States Department of Agriculture.

(d) "Person" means any individual, partnership, corporation, association, or any other business unit.

(e) "Milk" means whole milk, skim milk, cream, butterfat, and all dairy products, unless the context manifests a different meaning.

(f) "Nashville marketing area," hereinafter called the "marketing area" means all the territory within the corporate limits of the cities of Nashville, and Belle Meade, and all the territory located in Davidson County, Tennessee.

(g) "Cooperative association" means any cooperative marketing association of producers which the Secretary determines to be qualified pursuant to the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act," and to be engaged in making collective sales or marketing of milk or its products for the producers thereof.

(h) "Producer-handler" means any person who is both a producer and a handler and who receives no milk from other producers.

(i) "Delivery period" means the calendar month or the total portion thereof during which this order is in effect.

(j) "Fluid milk plant" means the premises and the portions of the building and facilities used in the receipt and processing or packaging of milk, all, or a portion of which is disposed of from such plant within the delivery period as Class I milk in the marketing area, but not including any portion of such building or facilities used for receiving or processing milk or any milk product required by the appropriate health authorities in the marketing area to be kept physically separate from the receiving and processing or packaging of milk for disposition as Class I milk in the marketing area.

(k) "Producers" means a person who, under a dairy farm permit issued by the appropriate health authority in the marketing area produces milk:

(1) Which is received at a fluid milk plant, or

(2) Which is caused by a handler to be diverted from a fluid milk plant to another plant not a fluid milk plant for the account of such handler.

(l) "Handler" means:

(1) Any person who operates a fluid milk plant, or

(2) Any person pursuant to subparagraph (1) of this paragraph who with respect to the milk of any producer who, under a dairy farm permit issued by the appropriate health authority in the marketing area, produces milk which is part of the dairy farm supply of a fluid milk plant, but which is caused to be diverted from a fluid milk plant to any other plant not a fluid milk plant for the account of such person.

(m) "Nonhandler" means any person who is not a handler but who operates a milk manufacturing, processing, or bottling plant.

(n) "Other source milk" means all skim milk (including reconstituted skim milk) and butterfat not derived from producer milk:

(1) Contained in milk, skim milk, or cream, or

(2) Used to produce any milk product. "Other source milk" shall include milk, skim milk, cream, or any milk product received at a fluid milk plant under an emergency permit issued by the appropriate health authorities in the marketing area.

(o) "Producer milk" means milk produced by one or more producers under the conditions set forth in paragraph (k) of this section.

(p) "Frozen cream" means milk, the butterfat from which is held in an approved cold storage warehouse at an average temperature below zero degrees Fahrenheit for seven (7) consecutive days, as shown by charts of a recording thermometer.

(q) "Out-of-area sales" means sales of "milk" in the cities of:

Columbia, Tenn.
Springfield, Tenn.
Ashland City, Tenn.
Dickson, Tenn.
Murfreesboro, Tenn.

SEC. 2. *Market administrator*—(a) *Designation.* The agency for the administration hereof shall be a market administrator who shall be a person selected by the Secretary. Such person shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

(b) *Powers.* The market administrator shall have the power to:

(1) Administer the terms and provisions hereof,

(2) Report to the Secretary complaints of violations hereof,

(3) Make rules and regulations to effectuate the terms and provisions hereof, and

(4) Recommend to the Secretary amendments hereto.

(c) *Duties.* The market administrator, in addition to the duties hereinafter described, shall:

(1) Within 45 days following the date on which he enters upon his duties execute and deliver to the Secretary a bond, effective as of the date on which he enters upon his duties as market administrator and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary.

(2) Employ and fix the compensation of such persons as may be necessary to enable him to administer the terms and provisions hereof;

(3) Pay, out of the funds provided by section 9,

(i) The cost of his bond and of the bonds of those of his employees who handle funds entrusted to the market administrator,

(ii) His own compensation, and

(iii) All other expenses, except those incurred under section 10 hereof, which will necessarily be incurred by him in the maintenance and functioning of his office and in the performance of his duties;

(4) Keep such books and records as will clearly reflect the transactions provided for herein, and, upon request by the Secretary, surrender the same to his successor or to such other person as the Secretary may designate;

(5) Publicly disclose to handlers and producers, unless otherwise directed by the Secretary, the name of any person who, within 10 days after the day upon which he is required to perform such acts, has not made:

(i) Reports pursuant to section 3 (a) or

(ii) Payments pursuant to section 8;

(6) Furnish such information and verified reports as the Secretary may request, and submit his books and records to examination by the Secretary at any and all times;

(7) Prepare and make available for the benefit of producers and handlers, such statistics and information concerning the operations hereunder as are necessary and essential to the proper functioning of this marketing order, provided such statistics and information do not reveal confidential information;

(8) Verify the information contained in the reports submitted by handlers.

(9) Notify each handler in writing and publicly announce the prices and butterfat differentials for each delivery period, as follows:

(i) On or before the 6th day after the end of each delivery period, the minimum prices for skim milk and butterfat in each class computed pursuant to section 5, and

(ii) On or before the 14th day after the end of each delivery period, the uniform prices computed pursuant to section 7 (b)

SEC. 3. *Reports of Handlers*—(a) *Periodic reports.* On or before the 10th day after the end of each delivery period, each handler, who purchases or receives milk from producers, with respect to all skim milk and butterfat contained in milk, skim milk, cream, and milk products which were, during such delivery period received from (1) producers; (2) other handlers; (3) own farm production; (4) any other sources, shall report to the market administrator in the detail and on forms prescribed by him as follows:

(i) The receipts at each plant from producers who are not handlers;

(ii) The receipts at each plant from any other handler;

(iii) The receipts at each plant from producer-handlers;

(iv) The receipts at each plant from such handler's own farm production;

(v) The receipts at each plant from any other source;

(vi) The utilization of all skim milk and butterfat disposed of, indicating those portions disposed of as out-of-area sales; and

(vii) The quantity of skim milk and butterfat on hand at the beginning and end of the delivery period.

(b) *Reports of producer-handlers and handlers who receive no milk from producers.* Producer-handlers and handlers who receive no milk from producers shall make reports to the market administrator at such time and in such manner as the market administrator may require.

(c) *Reports as to producers.* Each handler, upon the request of the market administrator shall, within 20 days after the end of the delivery period, submit to the market administrator his producer payroll for such delivery period which shall show for each producer (1) the total pounds of milk delivered with the average butterfat test thereof, and (2) the net amount of such handler's payment to such producer together with the prices, deductions, and charges involved.

(d) *Other reports.* On or before the day a handler receives "other source" milk, he shall report his intentions to receive such milk.

(e) *Verification of reports.* The market administrator shall verify all reports and payments of each handler by audit of such handler's records, and the records of any other handler or person upon whose utilization the classification of milk depends. Each handler shall keep adequate records of receipts and utilization of skim milk and butterfat and shall, during the usual hours of business, make available to the market administrator or his representative such records and facilities as will enable the market administrator to:

(1) Verify the receipts and utilization of all skim milk and butterfat and, in the case of errors or omissions, ascertain the correct figures;

(2) Weigh, sample, and test for butterfat content, milk and milk products;

(3) Verify payments to producers.

SEC. 4. *Classification of milk*—(a) *Skim milk and butterfat to be classified.* Skim milk and butterfat contained in milk, skim milk, and cream, used to produce milk products, received from all sources by each handler at a fluid milk plant shall be classified separately (as skim milk or butterfat) pursuant to the following provisions of this section.

(b) *Classes of utilization.* Skim milk and butterfat described in paragraph (a) of this section shall be classified by the market administrator on the basis of the following utilization:

(1) Class I milk shall be all skim milk (including reconstituted skim milk) and butterfat:

Disposed of in fluid form as milk; skim milk; and as buttermilk and flavored milk or flavored milk drinks having a butterfat content in excess of 1 percent; excepting livestock feed; and all milk not specifically accounted for as Class II milk, Class III milk, and Class IV milk.

(2) Class II milk shall be all skim milk and butterfat disposed of as cream (for consumption as cream) including any cream disposed of in fluid form which contains less than the minimum butterfat content required for fluid cream, and all skim milk and butterfat disposed of as buttermilk or milk drinks, whether plain or flavored not disposed of in Class I.

(3) Class III milk shall be all skim milk and butterfat:

(i) Used to produce ice cream, imitation ice cream, and other frozen desserts and mixes for similar products (liquid or powdered), or frozen cream; cheese (including cottage cheese) bulk condensed skim milk or whole milk (sweetened or unsweetened) evaporated or condensed milk (or skim milk) in hermetically sealed cans; nonfat dry milk solids; dry whole milk; powdered malted milk; and all products other than those specified in Class I milk, Class II milk, and Class IV milk.

(4) Class IV milk shall be the skim milk and butterfat accounted for as:

(i) Used to produce butter, butter oil, casein, lactose, condensed or dry buttermilk; whey; and skim milk or buttermilk disposed of for livestock feed; and

(ii) Actual plant shrinkage not in excess of 3 percent of the total receipts of skim milk and butterfat from all sources.

(c) *Responsibility of handlers.* In establishing the classification of milk as required in paragraph (b) of this section the burden rests upon the handler, who first receives or diverts milk from producers, to account for the skim milk and butterfat contained in such milk and to prove to the market administrator that such skim milk or butterfat should not be classified as Class I milk.

(d) *Transfers of milk and cream.* For skim milk and butterfat disposed of in the form of any item specified in paragraph (b) (1) of this section by a handler;

(i) To other handlers who receive milk from producers,

(ii) To a producer-handler,

(iii) To a handler who purchases or receives no producer milk, or

(iv) to a nonhandler,

the market administrator must be furnished with a statement by both the selling handler and the buyer as to disposition of the milk with respect to classification, whether as Classification I, Classification II, Classification III, or Classification IV, and it shall be classified accordingly, subject to verification by the market administrator.

In the absence of such statement to the administrator, such skim milk and butterfat shall be classified as Class I.

(e) *Correction of classification and reclassification of milk.* (1) The classification of any milk and butterfat shall be corrected by the market administrator if upon his audit it is found that such classification was reported incorrectly or incompletely by the handler.

(2) Any skim milk or butterfat reported by a handler as having been used or disposed of in any class which is found by the market administrator to have been reused or redisposed of (whether in original or other form) in a different class by such handler, by other handler(s) or by any nonhandler(s) shall be reclassified by the market administrator in accordance with such latter use or disposition.

(3) *Provided,* That no such correction of classification or reclassification shall be made or billing thereon issued after the expiration of 90 days from the close of the delivery period, except only in the event of intentional falsification of handlers' reports.

(f) *Computation of the skim milk and butterfat in each class.* (1) For each delivery period the market administrator shall correct for mathematical and other obvious errors the delivery period report submitted by each handler and compute the total pounds of skim milk and butterfat, respectively, in Class I milk, Class II milk, Class III milk, and Class IV milk for such handler.

(2) Should the actual plant shrinkage of the total receipts of skim milk and butterfat from all sources exceed the allowable 3 percent, the amount in excess shall be prorated into four portions according to the total quantities represented in the four classifications, and these prorated quantities shall be added to the amounts in the classifications.

(3) If the total utilization of skim milk and butterfat in the various classes, for any handler, is less or more than the actual receipts by the handler, the market administrator shall increase or decrease the amounts in the classification by a pro rata amount to make the utilization conform to total receipts by the handler.

(g) *Allocation of butterfat classified.* The pounds of butterfat in each classification allocated to milk received from producers shall be determined as follows:

From the total butterfat in each classification deduct therefrom the quantities obtained from other source milk, and the remainder will represent the quantity allocable to milk received from producers.

If adequate records are not available to determine the distribution of butterfat from other source milk into the classifications, the amount of butterfat in each classification allocable to producer milk shall be determined as follows:

From the total quantity of butterfat from all sources in Class II milk subtract the pounds of butterfat obtained in other source milk: *Provided,* That if the receipts of butterfat from other source milk are greater than the total pounds of butterfat in Class II, the excess quantity of butterfat from other source milk shall be deducted from the total quantity of butterfat in Class III.

Should that portion of butterfat from other source milk which is in excess of the total butterfat in Class II be greater than the total pounds of butterfat in Class III the difference between these two quantities shall be subtracted from the total butterfat in Class I.

After making the deductions as provided for above in the appropriate classifications the quantities of butterfat remaining in each classification will represent the butterfat to be allocated to producer milk.

(h) *Allocation of skim milk classified.* Allocate the pounds of skim milk in each class to milk received from producers in a manner similar to that prescribed for butterfat in paragraph (g) of this section.

If adequate records are not available and milk solids nonfat are received in form other than whole milk or skim milk, a conversion factor of 8.5 percent of nonfat solids shall be used.

SEC. 5. *Minimum prices*—(a) *Basic formula price.* For each delivery period the basic formula price to be used in determining the prices of Class I milk, in Class II milk and Class III milk, shall be the average of the prices per hundredweight of milk of 4.0 percent butterfat content computed by the market administrator pursuant to subparagraphs (1), (2) and (3) of this paragraph:

(1) The arithmetical average of the basic (or field) prices, delivery plant, per hundredweight ascertained to have been paid or to be paid during the preceding delivery period to farmers for milk containing 4.0 percent butterfat at each of the following listed manufacturing plants or places for which prices are reported to the United States Department of Agriculture or to the market administrator:

Concern and Location

Cudahy Packing Co., Lafayette, Tenn.
Lakeshire Marty Cheese Co., Carthage, Tenn.
Carnation Co., Murfreesboro, Tenn.
Kraft Cheese Co., Gallatin, Tenn.
Wilson and Co., Murfreesboro, Tenn.
Borden Co., Fayetteville, Tenn.
Swift and Co., Lebanon, Tenn.
Swift and Co., Lawrenceburg, Tenn.
Borden Co., Lewisburg, Tenn.
Giles County Dairy Products, Pulaski, Tenn.

(2) The price per hundredweight resulting from the following formula:

(i) Multiply the average wholesale price per pound of 92-score butter at Chicago for the preceding delivery period as reported by the United States Department of Agriculture, by six (6),

(ii) Add 2.4 times the average weekly prevailing price per pound of "Twins" during the preceding delivery period on the Wisconsin Cheese Exchange at Plymouth, Wisconsin: *Provided,* That if the price of "Twins" is not quoted on the

Wisconsin Cheese Exchange the weekly prevailing price of "Cheddars" shall be deemed to be the prevailing price for "Twins" and shall be used in determining the price pursuant to this formula;

(iii) Divide by seven (7)

(iv) Add 30 percent thereof; and

(v) Multiply by 4.0.

(3) The price per hundredweight computed as follows:

(i) From the average wholesale price per pound of 92-score butter in the Chicago market as reported by the United States Department of Agriculture (or by such other Federal agency as may hereafter be authorized to perform this price reporting function) for the preceding delivery period, subtract one cent;

(ii) Multiply by 4;

(iii) Add 20 percent thereof; and

(iv) Add 3½ cents per hundredweight for each full ½ cent that the price per pound of nonfat dry milk solids by roller process for human consumption is above 5½ cents, or subtract 3½ cents per hundredweight for each full ½ cent that the price per pound of nonfat dry milk solids by roller process for human consumption is below 5½ cents. For the purpose of determining this adjustment the price per pound of nonfat dry milk solids to be used shall be the average of the carlot prices for nonfat dry milk solids by roller process for human consumption, f. o. b. manufacturing plants, as published by the agency described in subdivision (i) of this subparagraph, for the Chicago market during the preceding delivery period, including in such average the quotations published for any fractional part of the previous delivery period which were not published and available at the time such average price was determined for the previous delivery period. In the event the carlot prices for nonfat dry milk solids by roller process for human consumption, f. o. b. manufacturing plants, for such delivery period, are not so published, the price of nonfat dry milk solids to be used shall be the average of the carlot prices for nonfat dry milk solids for human consumption, delivered at Chicago, during such delivery period, as published by such agency, and the adjustment to be made be as follows: Add 3½ cents per hundredweight for each full ½ cent that such price is above 6½ cents per pound, or subtract 3½ cents per hundredweight for each full ½ cent that such price is below 6½ cents per pound.

(b) *Class I milk prices.* The respective minimum prices per hundredweight, to be paid by each handler, f. o. b. his plant, for skim milk and butterfat received from producers, which is classified as Class I milk, shall be as follows, as computed by the market administrator:

(1) Add $0.90 to the basic formula price.

(2) The price of butterfat shall be the sum obtained in subparagraph (1) of this paragraph, multiplied by 20.

(3) The price of skim milk shall be computed by:

(i) Multiplying the price of butterfat pursuant to subparagraph (2) of this paragraph by 0.040;

(ii) Subtracting such amount from the sum obtained in subparagraph (1) of this paragraph;

(iii) Dividing such net amount by 0.96; and

(iv) Rounding off to the nearest full cent.

(c) *Class II milk prices.* The respective minimum prices per hundredweight to be paid by each handler, f. o. b. his plant, for skim milk and butterfat in milk received from producers, which is classified as Class II milk shall be as follows, as computed by the market administrator;

(1) Add $0.40 to the basic formula price.

(2) The price of butterfat shall be the sum obtained in subparagraph (1) of this paragraph, multiplied by 20.

(3) The price of skim milk shall be computed by:

(i) Multiplying the price for butterfat pursuant to subparagraph (2) of this paragraph by 0.040;

(ii) Subtracting such amount from the sum obtained in subparagraph (1) of this paragraph;

(iii) Dividing such net amount by 0.96; and

(iv) Rounding off to the nearest full cent.

(d) *Class III milk prices.* The respective minimum price per hundredweight to be paid by each handler, f. o. b. his plant, for skim milk and butterfat in milk received from producers, which is classified as Class III milk, shall be as follows, as computed by the market administrator:

(1) Use the basic formula price.

(2) The price of butterfat shall be the amount in subparagraph (1) of this paragraph, multiplied by 20.

(3) The price of skim milk shall be computed by:

(i) Multiplying the price for butterfat pursuant to subparagraph (2) of this paragraph by 0.040;

(ii) Subtracting such amount from the sum obtained in subparagraph (1) of this paragraph;

(iii) Dividing such net amount by 0.96; and

(iv) Rounding off to the nearest full cent.

(e) *Class IV milk prices.* The respective minimum prices per hundredweight to be paid by each handler, f. o. b. his plant, for skim milk and butterfat in milk received from producers which is classified as Class IV milk shall be as follows, as computed by the market administrator:

(1) The price per hundredweight of butterfat shall be the average price per pound of 92-score butter at wholesale in the Chicago market, as reported by the Department of Agriculture for the preceding delivery period, multiplied by 110.

(2) The price per hundredweight of skim milk (calculated to the nearest full cent) shall be determined as follows:

Subtract 5½ cents from the average carlot price per pound of nonfat dry milk solids for human consumption, roller process, f. o. b. manufacturing plants, as published for the Chicago area for the preceding delivery period by the Department of Agriculture; divide this difference by 0.5; multiply by 3.5; then multiply by 0.96.

SEC. 6. *Application of provisions*—(a) *Handlers who receive no milk from producers.* Sections 4, 5, 7, 8, 9, and 10 shall not apply to the handling of milk by producer-handlers or by handlers whose sole source of supply is receipts from other handlers.

(b) *Producer-handlers.* Handlers shall furnish to the market administrator for his verification, subject to review by the Secretary, evidence of their qualification as producer-handlers pursuant to section 1 (h) as of the effective date hereof, and they shall furnish evidence of subsequent changes made in the manner of producing or distributing that milk that affects their qualification as producer-handlers.

(c) Milk received by a handler from his own farm production shall be considered as "producer milk."

(d) Milk received from handlers under any marketing agreement or order issued pursuant to the act for any other fluid milk marketing area shall be considered as "other source milk."

SEC. 7. *Determination of uniform price to producers*—(a) *Computation of the value of the milk of each handler.* The pool value for each delivery period of each handler shall be a sum of money computed by the market administrator by adding the quantities computed in subparagraphs (1) and (2) of this paragraph.

(1) The total skim milk and butterfat in each classification from producers (excluding those quantities disposed of as out-of-area sales) shall be multiplied by the applicable prices for skim milk and butterfat in each class pursuant to section 5 (b) and the resulting amounts added together.

(2) (i) Compute the average price paid by the following dairy plants per hundredweight of 4 percent butterfat milk for the preceding delivery period.

Murfreesboro Pure Milk Co., Murfreesboro, Tennessee

Jersey Pride Products Co., Columbia, Tennessee

Tuell Dairy Products Co., Columbia, Tennessee

Supreme Dairy Products Co., Springfield, Tennessee

Avon Dairies, Inc., Dickson, Tennessee

Castlewood Dairy, Murfreesboro, Tennessee

(ii) The price of butterfat to be applied to out-of-area sales shall be the average figure from subdivision (i) above multiplied by 20.

(iii) The price of skim milk to be applied to out-of-area sales shall be computed by:

Multiplying the price for butterfat pursuant to subdivision (ii) of this subparagraph by 0.40; subtracting such amount from the average price found in subdivision (i) of this subparagraph; dividing such net amount by 0.96; and rounding off to the nearest full cent.

(iv) Multiply the total quantity of skim milk and of butterfat disposed of as out-of-area sales by the applicable prices from subdivisions (ii) and (iii) of this subparagraph and add the resulting amounts.

(b) *Computation and announcement of uniform price.* For each delivery period, the market administrator shall compute the "uniform price" per hundredweight for milk of 4.0 percent but-

terfat content received from producers by:

(1) Combining into one total the pool values computed under paragraph (a) of this section for all handlers for such delivery period;

(2) Subtracting, if the weighted average butterfat test of all milk received from producers represented by the values included in subparagraph (1) of this paragraph is greater than 4.0 percent, or adding, if the weighted average butterfat test of such milk is less than 4.0 percent, for each one-tenth percent difference, an amount obtained by multiplying the total hundredweight of milk received from all producers by a factor obtained as follows:

Multiply by 1.2 the average wholesale price per pound of 92-score butter at Chicago, as reported by the Department of Agriculture for the preceding delivery period, divide the result by 10, and adjust to the nearest one-tenth of a cent.

(3) (i) For each of the delivery periods of April, May, and June, subtract an amount equal to 20 cents per hundredweight of the total amount of milk received from producers by the handlers whose milk values are included under subparagraph (1) of this paragraph.

(ii) Add for each of the delivery periods of September, October, and November an amount equal to one-third of the aggregate amount withheld pursuant to section 7 (b) (3) (i)

(4) Add an amount representing the cash balance in the producer-settlement fund, less the amount due handlers pursuant to section 8 (f) and less the aggregate of the amount held pursuant to subparagraph (3) of this paragraph.

(5) Divide the amount computed pursuant to subparagraph (4) of this paragraph by a figure equal to the total hundredweight of milk received by handlers from producers.

(6) Subtract from the figures computed pursuant to subparagraph (5) of this paragraph not less than 4 cents nor more than 5 cents, for the purpose of retaining in the producer-settlement fund a cash balance to provide against errors in reports and payments or delinquencies in payments by handlers. This result shall be known as the uniform price per hundred weight of producer milk of 4.0 percent butterfat content for such delivery period.

(7) On or before the 14th day after the end of each delivery period the market administrator shall notify each handler of such uniform price, and the butterfat differential.

SEC. 8. *Payment to producers.* (a) On or before the last day of each delivery period each handler shall make payment to each producer on a basis of not less than 70 percent of the price established for the preceding delivery period, for the milk received from each producer, and delivered to such handler during the first 15 days of the current delivery period.

(b) (1) On or before the 20th day after the end of each delivery period each handler shall make payment to each producer for milk received from such producer, on the basis of the total hundredweight received from such producer and the "uniform price," basis 4 percent butterfat, subject to the following adjustments:

(i) The butterfat differential pursuant to section 7 (b) (2)

(ii) Less payment made pursuant to paragraph (a) of this section,

(iii) Less marketing service deductions pursuant to section 10,

(iv) Less deductions authorized by the producer,

(v) Adjustments of error in calculating payments to such individual producer pursuant to section 8 (f)

(2) *Provided,* That if by such date such handler has not received final payment for such delivery period pursuant to paragraph (e) of this section, he shall not be deemed to be in violation of this paragraph if he reduces uniformly to all producers his payments per hundredweight by a total amount not in excess of the per hundredweight reduction in payment from the market administrator; however, the handler shall make such balance of payment uniformly to those producers to whom it is due on or before the date for making payments pursuant to this paragraph next following that on which such balance of payment is received from the market administrator.

(c) *Producer-settlement fund.* The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to paragraphs (d) and (f) of this section, and out of which he shall make payments pursuant to paragraphs (e) and (f) of this section.

(d) *Payments to the producer-settlement fund.* On or before the 15th day after the end of each delivery period, each handler shall pay to the market administrator any amount by which the classification value of his milk, computed pursuant to section 7 (a) for the delivery period, is greater than an amount computed by multiplying the hundredweight of milk received by him from producers during the delivery period at the uniform price corrected for butterfat differential.

(e) *Payments out of the producer-settlement fund.* (1) On or before the 18th day after the end of such delivery period, the market administrator shall pay to each handler for payment to producers any amount by which the classification value of his milk, computed pursuant to section 7 (a) for the delivery period, is less than an amount computed by multiplying the hundredweight of milk received by him from producers during the delivery period by the uniform price, corrected for butterfat differential. If at such time the balance in the producer-settlement fund is insufficient to make all payments pursuant to this paragraph, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available.

(f) *Adjustment of errors in payments.* Whenever verification by the market administrator of payments by and handler discloses any errors made in payments to the producer-settlement fund pursuant to paragraph (d) of this section, the market administrator shall promptly bill such handler for any unpaid amount and such handler shall, within 15 days, make payment to the market administrator of the amount so billed. Whenever verification discloses that payment is due from the market administrator to any handler, pursuant to paragraph (e) of this section, the market administrator shall, within 15 days, make such payment to such handler. Whenever verification by the market administrator of the payment by a handler to any producer for milk received by such handler discloses payment of less than is required by this section, an adjustment therefor shall be made not later than the time of making payment to producers next following such disclosure: *Provided,* That there shall be no adjustment of errors as herein described in section 8 (f) after the expiration of 90 days from the date of the error, except only in the case of fraud or intentional falsification.

(g) *Statement to producers.* In making payment to producers, each handler shall furnish each producer with a supporting statement in such form that it may be retained by the producer, which shall show:

(1) The delivery period and the identity of the handler and of the producer;

(2) The total pounds and the average butterfat content of milk delivered by the producer;

(3) The rate per hundredweight used in computing the payment;

(4) Such deductions or adjustments as have been made to arrive at the net amount of payment to the producer;

(5) The net amount of payment to the producer;

(6) *Producers cooperative associations.* In the case of producers for whom a cooperative association, which the secretary determines to be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act" is actually performing, as determined by the Secretary, the services set forth in section 10 (a) each handler shall make, in lieu of the deductions specified in paragraph (a) of section 10, such deductions from the payments to be made directly to producers pursuant to section 8, as are authorized by such producers, and, on or before the 22d day after the end of each delivery period, pay over such deductions to the association rendering such service.

SEC. 9. *Expenses of administration*—(a) *Payments by handlers.* As his pro rata share of the expense of the administration hereof, each handler, on or before the 15th day after the end of each delivery period, shall pay to the market administrator a sum not exceeding 2 cents per hundredweight with respect to all skim milk and butterfat received from producers except that the Secretary may prescribe a lesser rate.

(b) *Suits by the market administrator* The market administrator may maintain a suit in his own name against any handler for the collection of such handler's pro rata share of expense set forth in this section.

SEC. 10. *Marketing services*—(a) *Deductions for marketing services.* Except

as set forth in section 8 (g) (6) each handler shall deduct an amount not exceeding 3 cents per hundredweight (the exact rate to be determined by the market administrator subject to review by the Secretary) from the payments made to producers pursuant to section 8 with respect to all milk received by such handler from producers during the delivery period and shall pay such deductions to the market administrator not later than the 22d day after the end of the delivery period. Such money shall be used by the market administrator to verify weights, samples, and tests of milk received by handlers from producers during the delivery period and to provide such producers with market information, such services to be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him.

SEC. 11. *Auditing accounts of the market administrator* During each yearly period after the effective date of this order, there shall be an audit of the records and the accounts of the market administrator for their correctness, such audit to be made by a licensed auditing firm in the State of Tennessee, and to be paid for out of the funds controlled by the market administrator.

SEC. 12. *Effective time, suspension and termination*—(a) *Effective time.* The provisions hereof or any amendments hereto shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated pursuant to paragraph (b) of this section.

(b) *Suspension or termination.* The Secretary shall suspend or terminate any or all of the provisions hereof, whenever he finds that it obstructs or does not tend to effectuate the declared policy of the act. This order shall, in any event, terminate whenever the provisions of the act authorizing it cease to be in effect.

(c) *Continuing power and duty of the market administrator* If, upon the suspension or termination of any or all of the provisions hereof, there are any obligations arising hereunder, the final accrual or ascertainment of which require further acts by any handler, by the market administrator, or by any other person, the power and duty to perform such further acts shall continue notwithstanding such suspension or termination: *Provided,* That any such acts required to be performed by the market administrator shall, if the Secretary so directs, be performed by such other person, persons, or agency as the Secretary may designate.

The market administrator, or such other person as the Secretary may designate (1) shall continue in such capacity until discharged by the Secretary; (2) from time to time account for all receipts and disbursements and deliver all funds or property on hand together with the books and records of the market administrator, or such person, to such person as the Secretary shall direct; and (3) if so desired by the Secretary execute such assignments or other instruments necessary or appropriate to vest in such person full title to all funds, property, and claims vested in the market administrator or such person pursuant thereto.

(d) *Liquidation after suspension or termination.* Upon the suspension or any or all provisions hereof, the market administrator, or such person as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office, and dispose of all funds and property then in his possession or under his control, together with claims for any funds which are unpaid or owing at the time of such suspension or termination. Any funds collected pursuant to the provisions hereof, over and above the amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator or such person in liquidating and distributing such funds, shall be distributed to the contributing handlers and producers in an equitable manner.

SEC. 12. *Separability of provisions.* If any provisions hereof, or its application to any person or circumstances, is held invalid, the application of such provision, and of the remaining provisions hereof, to other persons or circumstances shall not be affected thereby.

SEC. 13. *Agents.* The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions hereof.

Copies of this notice of hearing may be procured from the Director, Dairy Branch, Production and Marketing Administration, United States Department of Agriculture, Washington 25, D. C., or from the Hearing Clerk, Office of the Solicitor, United States Department of Agriculture, Room 0306, South Building, Washington 25, D. C., or may be there inspected.

Dated: May 20, 1947.

[SEAL] F. R. BURKE,
Acting Assistant Administrator, Production and Marketing Administration.

[F. R. Doc. 47-4978; Filed, May 26, 1947; 8:58 a. m.]

CIVIL AERONAUTICS BOARD

[14 CFR, Part 60]

AIR TRAFFIC RULES

NOTICE OF PROPOSED RULE MAKING

Pursuant to section 4 (a) of the Administrative Procedure Act, the Safety Bureau of the Civil Aeronautics Board hereby gives public notice that the Bureau, immediately after 30 days from date of this notice, will recommend to the Board that Part 60 of the Civil Air Regulations, Air Traffic Rules, be revised.

On October 1, 1946, the Safety Bureau circulated to the aviation industry for comment Draft Releases No. 46-5, Proposed Revision of Part 60, Air Traffic Rules. Comments received concerning that draft release have been carefully considered. The proposed regulations published herein have been developed after many conferences with representatives of all branches of the aviation industry. This study, together with experience gained with existing air traffic rules since the last revision on August 1, 1945, indicate that certain modification and clarification are necessary in the interest of safety, and that rules should be promulgated to provide for increasing helicopter operations, for the operation of aircraft on the surface of the water, and for certain essential minimums for instrument flight.

The proposed air traffic rules are as follows:

§ 60.0 *General.*

§ 60.00 *Scope.* The following air traffic rules shall apply to aircraft operated anywhere in the United States, including the several States, the District of Columbia, and the several territories and possessions of the United States, including the territorial waters and the overlying airspace thereof, except:

(a) Military aircraft of the United States armed forces when appropriate military authority determines that noncompliance with the regulations in this part is required and prior notice thereof is given to the Administrator, or

(b) Aircraft engaged in special flight operations, requiring deviation from the regulations in this part, which are conducted in accordance with the terms and conditions of a certificate of waiver issued by the Administrator.

§ 60.01 *Authority of the pilot.* The pilot in command of the aircraft shall be directly responsible for its operation and shall have final authority as to operation of the aircraft. In emergency situations which require immediate decision and action the pilot may deviate from the regulations prescribed in this part to the extent required by considerations of safety. When such emergency authority is exercised, the pilot, upon request of the Administrator, shall file a written report of such deviation.

§ 60.1 *General flight rules (GFR).*

§ 60.100 *Application.* Aircraft shall be operated at all times in compliance with the following general flight rules and also in compliance with either the visual flight rules or the instrument flight rules, whichever are applicable.

§ 60.101 *Preflight action.* Before beginning a flight, the pilot in command of the aircraft shall familiarize himself with all available information appropriate to the intended operation. Preflight action for flights away from the vicinity of an airport, and for all IFR flights, shall include a careful study of available current weather reports and forecasts, taking into consideration fuel requirements and an alternate course of action, if the flight cannot be completed as planned.

§ 60.102 *Careless or reckless operation.* No person shall operate an aircraft in a careless or reckless manner so as to endanger the life or property of others.

§ 60.103 *Airspace restricted areas.* No person shall operate an aircraft within an airspace reservation or danger

area unless permission for such operation has been issued by appropriate authority.

§ 60.104 *Right-of-way.* An aircraft which is obliged by the following rules to keep out of the way of another shall avoid passing over or under the other, or crossing ahead of it, unless passing well clear.

(a) *Distress.* An aircraft in distress has the right-of-way over all other air traffic.

(b) *Converging.* Aircraft converging shall give way to other aircraft of a different category in the following order: airplanes and rotorcraft shall give to airships, gliders, and balloons; airships shall give way to gliders and balloons; gliders shall give way to balloons. When two or more aircraft of the same category are converging at approximately the same altitude, each shall give way to the other on its right. In any event, mechanically driven aircraft shall give way to aircraft which are seen to be towing other aircraft.

(c) *Approaching head-on.* When two aircraft are approaching head-on, or approximately so, each shall alter its course to the right.

(d) *Overtaking.* An aircraft that is being overtaken has the right-of-way, and the overtaking aircraft, whether climbing, descending, or in horizontal flight, shall keep out of the way of the other aircraft by altering its course to the right, and no subsequent change in the relative positions of the two aircraft shall absolve the overtaking aircraft from this obligation until it is entirely past and clear.

(e) *Landing.* Aircraft, while landing or on final approach to land, have the right-of-way over other aircraft in flight or operating on the surface. When two or more aircraft are approaching an airport for the purpose of landing, the aircraft at the lower altitude has the right-of-way, but it shall not take advantage of this rule to cut-in in front of another which is on final approach to land, or to overtake that aircraft.

§ 60.105 *Proximity of aircraft.* No person shall operate an aircraft in such proximity to other aircraft as to create a collision hazard. No person shall operate an aircraft in formation flight when passengers are carried for hire. No aircraft shall be operated in formation flight except by prearrangement between the pilots in command of such aircraft.

§ 60.106 *Acrobatic flight.* No person shall engage in acrobatic flight:

(a) Over congested areas of cities, towns, settlements, or over an open-air assembly of persons, or

(b) Within any control zone, or in any area or lane of high traffic density, or

(c) When the flight visibility is less than 3 miles, or

(d) Below an altitude of 1,500 feet above the surface.

§ 60.107 *Minimum safe altitudes.* Except when necessary for landing or taking off, no person shall operate aircraft:

(a) Over the congested areas of cities, towns, or settlements, or over an open-air assembly of persons, except at such an altitude as will permit, in the event of the failure of a power unit, an emergency landing without undue hazard to persons or property on the surface, and such altitude, except for helicopters, shall not be less than 1,000 feet above the highest obstacle within a radius of 2,000 feet from the aircraft;

(b) When elsewhere than specified in paragraph (a) of this section, at an altitude of less than 500 feet above the surface, except when over open water or sparsely populated areas. In such event, the aircraft shall not be operated closer than 500 feet to any person, or to any vessel, vehicle, structure, livestock, or other similar property of others on the surface.

§ 60.108 *Operation on and in the vicinity of an airport.* Aircraft shall be operated on and in the vicinity of an airport in accordance with the following rules:

(a) When approaching for landing, all turns shall be made to the left unless the airport displays standard visual markings approved by the Administrator and which indicate that all turns are to be made to the right, or unless otherwise authorized by air traffic control.

(b) If air traffic control is in operation at the airport, contact shall be maintained with such control, either visually or by radio, to receive any air traffic control instructions which may be issued.

(c) Aircraft operating on or from an airport shall conform to the traffic patterns prescribed for that airport. The Administrator may, when necessary in the interest of safety, prescribe traffic patterns for an airport which shall supersede any other traffic patterns previously prescribed.

(d) When light signals are used for the control of air traffic, they shall be of the color and have the meaning prescribed by the Administrator.

NOTE: Light signals and their meanings are published in the CAA Flight Information Manual.

§ 60.109 *Air traffic control instructions.* No person shall operate an aircraft in areas where air traffic control is exercised except in accordance with air traffic control instructions.

§ 60.110 *Notification of arrival.* If a flight plan has been filed, the pilot in command of the aircraft, upon landing or completion of the flight, shall file an arrival or completion notice with the nearest Civil Aeronautics Administration communications station or control tower.

§ 60.111 *Adherence to air traffic clearances.* When an air traffic clearance has been obtained under either the VFR or IFR rules, the pilot in command of the aircraft shall not deviate from the provisions thereof unless an amended clearance is obtained. In case emergency authority is used to deviate from the provisions of an air traffic clearance, the pilot in command shall notify air traffic control as soon as possible and, if necessary, obtain an amended clearance.

§ 60.112 *Water operations.* An aircraft operated on the water shall, insofar as possible, keep clear of all vessels and avoid impeding their navigation. The following rules shall be observed with respect to other aircraft or vessels operated on the water:

(a) *Crossing.* The aircraft or vessel which has the other on its right shall give way so as to keep well clear.

(b) *Approaching head-on.* When aircraft, or an aircraft and vessel, approach head-on, or approximately so, each shall alter its course to the right to keep well clear.

(c) *Overtaking.* The aircraft or vessel which is being overtaken has the right-of-way, and the one overtaking shall alter its course to keep well clear.

(d) *Special circumstances.* When two aircraft, or an aircraft and vessel, approach so as to involve risk of collision, each shall proceed with careful regard to existing circumstances and conditions including the limitations of the respective craft.

§ 60.113 *Aircraft lights.* During the hours of darkness:

(a) All aircraft in flight or operated on the ground shall display position lights.

(b) All aircraft parked or moved within or in dangerous proximity to that portion of any airport used for, or available to, night flight operations shall be clearly illuminated or lighted, unless the aircraft is parked or moved in an area marked with obstruction lights.

(c) All aircraft under way on the water shall display position lights.

(d) All aircraft at anchor shall display an anchor light, or anchor lights, unless in an area within which lights are not required for vessels at anchor.

§ 60.2 *Visual flight rules (VFR)*

§ 60.200 *Distance from clouds.* Aircraft shall be flown:

(a) *Within control zones.* Not less than 500 feet vertically and 2,000 feet horizontally from any cloud formation, unless air traffic control has authorized flight clear of clouds; and

(b) *Elsewhere.* At any altitude more than 700 feet above the surface, 500 feet vertically and 2,000 feet horizontally from any cloud formation; at an altitude of 700 feet or less above the surface, clear of clouds.

§ 60.201 *Visibility*—(a) *Ground visibility within control zones.* When the ground visibility is less than 3 miles, no person shall take off or land an aircraft at an airport within a control zone, or enter the traffic pattern of such an airport, unless an air traffic clearance is obtained from air traffic control.

(b) *Flight visibility within control zones.* When the flight visibility is less than 3 miles, no person shall operate an aircraft in flight within a control zone, unless an air traffic clearance is obtained from air traffic control.

(c) *Flight visibility within control areas.* When the flight visibility is less than 3 miles, no person shall operate an aircraft in flight within a control area.

(d) *Flight visibility elsewhere.* When outside of control zones and control areas, no person shall operate an aircraft in flight when the flight visibility is less than one mile. However, helicopters may be flown at or below 700 feet above the surface when the flight visi-

bility is less than one mile if operated at a reduced speed which will give the pilot of such helicopter adequate opportunity to see other air traffic or any obstacle to flight in time to avoid hazard of collision.

NOTE: When traffic conditions permit, air traffic control will issue an air traffic clearance for flights within, entering, or departing control zones when the ground visibility or the flight visibility is less than 3 miles.

§ 60.202 *Cruising altitudes.* Outside of control zones and control areas, at any altitude of 2,000 feet or more above the surface when the flight visibility is less than 3 miles, aircraft shall be operated at cruising altitudes above set level appropriate to the magnetic course being flown as follows:

(a) 0° to 89° inclusive, at odd thousands (3,000; 5,000; etc.),
(b) 90° to 179° inclusive, at odd thousands plus 500 (3,500; 5,500; etc.),
(c) 180° to 269° inclusive, at even thousands (2,000; 4,000; etc.),
(d) 270° to 359° inclusive, at even thousands plus 500 (2,500; 4,500; etc.).

§ 60.203 *VFR flight plan.* If a VFR flight plan is filed, it shall contain such of the information listed in § 60.300 as air traffic control may require.

§ 60.3 *Instrument flight rules (IFR).*

§ 60.300 *Application.* When aircraft cannot be flown in accordance with the distance-from-cloud and visibility rules prescribed in the visual flight rules (§ 60.2) aircraft shall be flown in accordance with the following rules.

§ 60.301 *IFR flight plan.* Prior to take-off from a point within a control zone or prior to entering a control area or control zone, a flight plan shall be filed with air traffic control. Such a flight plan shall contain the following information unless otherwise authorized by air traffic control:

(a) Aircraft identification, and if necessary, radio call sign,
(b) Type of aircraft, or in the case of a formation flight, the types and number involved,
(c) Full name, address, and number of pilot certificate of pilot in command of the aircraft, or of the flight commander if a formation flight is involved,
(d) Point of departure,
(e) Cruising altitude, or altitudes, and the route to be followed,
(f) Point of first intended landing,
(g) Proposed true air speed at cruising altitude,
(h) Radio transmitting and receiving frequencies to be used,
(i) Proposed time of departure,
(j) Estimated elapsed time until arrival over the point of first intended landing,
(k) Alternate airport or airports, in accordance with the requirements of § 60.301,
(l) Amount of fuel on board expressed in hours,
(m) Any other information which the pilot in command of the aircraft, or air traffic control, deems necessary for air traffic control purposes.

§ 60.302 *Alternate airport.* An airport shall not be listed in the flight plan as an alternate airport unless current weather reports and forecasts show a trend indicating that the ceiling and visibility at such airport will be at or above the following minimums at the time of arrival:

(a) *Airport served by radio directional facility.* Ceiling 1,000 feet, visibility one mile; or, ceiling 900 feet, visibility 1½ miles; or, ceiling 800 feet, visibility 2 miles;

(b) *Airport not served by radio directional facility.* Ceiling 1,000 feet with broken clouds or better, visibility 2 miles.

§ 60.303 *Fuel supply.* Sufficient fuel and oil, considering weather and other factors, shall be carried to:

(a) Complete the flight to the point of first intended landing, and thereafter
(b) Fly to the alternate airport, and thereafter
(c) Fly at normal cruising consumption from 45 minutes.

§ 60.304 *Air traffic clearance.* Prior to take-off from a point within a control zone or prior to entering a control area or control zone, an air traffic clearance shall be obtained from air traffic control.

§ 60.305 *Minimum altitude.* Except during take-off or landing or when operating in accordance with procedures approved by the Administrator, no person shall operate an aircraft in flight at an altitude of less than 1,000 feet above the highest obstacle located within a horizontal distance of 5 miles from the aircraft in flight.

§ 60.306 *Cruising altitudes.* Aircraft shall be flown at the following cruising altitudes:

(a) *Within control areas and control zones.* At altitudes authorized by air traffic control.

(b) *Elsewhere.* At an altitude appropriate to the magnetic course being flown as follows:

(1) 0° to 89° inclusive, at odd thousands (1,000; 3,000; etc.),
(2) 90° to 179° inclusive, at odd thousands plus 500 (1,500; 3,500; etc.),
(3) 180° to 269° inclusive, at even thousands (2,000; 4,000; etc.),
(4) 270° to 359° inclusive, at even thousands plus 500 (2,500; 4,500; etc.).

§ 60.307 *Right-side traffic.* Aircraft operating along a civil airway shall be flown to the right of the center line of such airway, unless otherwise authorized by air traffic control.

§ 60.308 *Landing minimums.* No person shall land an aircraft at an airport for which the Administrator has prescribed ceiling and visibility minimums unless the ceiling and visibility minimums are at or above those minimums, or unless otherwise authorized by the Administrator.

NOTE: Airport landing minimums prescribed by the Administrator are published in the CAA Flight Information Manual.

§ 60.309 *Instrument approach procedure.* When instrument letdown to an airport is necessary, a standard instrument approach procedure prescribed for that airport by the Administrator shall be used, unless:

(a) A different instrument approach procedure specifically authorized by the Administrator is used, or
(b) A different instrument approach procedure is authorized by air traffic control for the particular approach.

NOTE: Standard instrument approach prescribed by the Administrator are published in the CAA Flight Information Manual.

§ 60.310 *Radio communications.* Within control zones and control areas the pilot in command of the aircraft shall ensure that a continuous watch is maintained on the appropriate radio frequencies and shall report by radio as soon as possible the time and altitude of passing each designated reporting point, or the reporting points specified by air traffic control, together with unanticipated weather conditions being encountered and other information pertinent to the safety of flight.

NOTE: Designated reporting points are published in the CAA Airman's Guide, for sale by the Superintendent of Documents, U. S. Government Printing Office, Washington 25, D. C.

§ 60.311 *Radio failure.* If unable to maintain two-way radio communication, the pilot in command of the aircraft shall:

(a) Proceed under VFR conditions, or
(b) Land as soon as practicable, or
(c) Proceed according to the latest traffic clearance to the airport of intended landing, maintaining the minimum safe altitude or the last acknowledged assigned altitude, whichever is higher. Descent shall start at approach time last authorized or, if not received and acknowledged, at the estimated time of arrival indicated by the elapsed time specified in the flight plan.

§ 60.9 *Definitions.*

§ 60.900 *Acrobatic flight.* Maneuvers intentionally performed by an aircraft involving an abrupt change in its attitude, an abnormal attitude, or an abnormal acceleration.

§ 60.901 *Aircraft.* Any contrivance invented, used, or designed for navigation of or flight in the air, except a parachute or other contrivance designed for such navigation but used primarily as safety equipment.

§ 60.902 *Airplane.* A mechanically propelled aircraft the support of which in flight is derived dynamically from the reaction on surfaces in a fixed position relative to the aircraft but in motion relative to the air.

§ 60.903 *Airport.* A defined area on land or water, including any buildings and installations, normally used for the take-off and landing of aircraft.

§ 60.904 *Airship.* A mechanically propelled aircraft whose support is derived from lighter-than-air gas.

§ 60.905 *Airspace restricted areas.* Designated areas in which flight is restricted, which are established by appropriate authority, and are shown on aeronautical charts and published in notices to airmen and aids to air navigation:

(a) *Airspace reservation.* An area established by Executive Order of the Pres-

ident of the United States or by any State of the United States.

(b) *Danger area.* An area designated by the Administrator within which an invisible hazard to aircraft in flight exists.

§ 60.906 *Air traffic.* Aircraft in operation anywhere in the airspace and on that area of an airport normally used for the movement of aircraft.

§ 60.907 *Air traffic clearance.* Authorization by air traffic control, for the purpose of preventing collision between known aircraft, for an aircraft to proceed under specified conditions within a control zone or a control area.

§ 60.908 *Air traffic control.* A service operated by appropriate authority to promote the safe, orderly, and expeditious flow of air traffic.

§ 60.909 *Alternate airport.* An airport specified in the flight plan to which a flight may proceed when a landing at the point of first intended landing becomes inadvisable.

§ 60.910 *Approach time.* The time at which an aircraft is expected to commence its approach procedure preparatory to landing.

§ 60.911 *Balloon.* An aircraft, excluding moored balloons, without mechanical means of propulsion, the support of which is derived from lighter-than-air gas.

§ 60.912 *Ceiling.* The distance from the surface of the ground or water to the lowest cloud layer reported as "broken clouds" or "overcast."

§ 60.913 *Control area.* An airspace of defined dimensions, designated by the Administrator, extending upwards from an altitude of 700 feet above the surface, within which air traffic control is exercised.

§ 60.914 *Control zone.* An airspace of defined dimensions, designated by the Administrator, extending upwards from the surface, to include one or more airports, and within which rules additional to those governing flight in control areas apply for the protection of air traffic.

§ 60.915 *Cruising altitude.* A constant altimeter indication, in relation to sea level, maintained during a flight or portion thereof.

§ 60.916 *Flight plan.* Specified information filed either verbally or in writing with air traffic control relative to the intended flight of an aircraft.

§ 60.917 *Flight visibility.* The horizontal distance that prominent objects may be seen from the cockpit.

§ 60.918 *Glider* An aircraft without mechanical means of propulsion the support of which in flight is derived dynamically from the reaction on surfaces in motion relative to the air.

§ 60.919 *Ground visibility.* The average range of vision in the vicinity of an airport as reported by the U. S. Weather Bureau or, if unavailable, by an accredited observer.

§ 60.920 *Helicopter* A type of rotorcraft the support of which in the air is normally derived from airfoils mechanically rotated about an approximately vertical axis.

§ 60.921 *Hours of darkness.* The hours between sunset and sunrise during which any unlighted aircraft or other unlighted prominent objects cannot readily be seen beyond a distance of 3 miles. In any case, "hours of darkness" shall extend from 30 minutes after sunset to 30 minutes before sunrise. Within the Territory of Alaska "hours of darkness" shall constitute those hours specified and published by the Administrator.

§ 60.922 *IFR.* The symbol used to designate instrument flight rules.

§ 60.923 *IFR conditions.* Weather conditions below the minimum prescribed for flights under VFR.

§ 60.924 *Magnetic course.* The true course or track, corrected for magnetic variation, between two points on the surface of the earth.

§ 60.925 *Reporting point.* A geographical location in relation to which the position of an aircraft is reported.

§ 60.926 *Rotorcraft.* An aircraft whose support in the air is chiefly derived from the vertical component of the force produced by rotating airfoils.

§ 60.927 *Traffic pattern.* The flow of aircraft operating on and in the vicinity of an airport during specified wind conditions as established by appropriate authority.

§ 60.928 *VFR.* The symbol used to designate visual flight rules.

§ 60.929 *VFR conditions.* Weather conditions equal to or above the minimums prescribed for flights under VFR.

These rules are proposed under authority of Title VI of the Civil Aeronautics Act of 1938. All interested persons may submit in writing any data, views, and argument concerning this proposal. Such material should be sent to reach the Safety Bureau, Civil Aeronautics Board, Washington 25, D. C., not later than June 27, 1947.

(52 Stat. 984, 1007; 49 U. S. C. 425, 551)

By the Safety Bureau.

[SEAL] W S. DAWSON,
Director

[F. R. Doc. 47-4980; Filed, May 26, 1947; 8:59 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR, Part 18]

INDUSTRIAL, SCIENTIFIC AND MEDICAL SERVICE

NOTICE OF PROPOSED RULE MAKING WITH RESPECT TO MISCELLANEOUS EQUIPMENT

CROSS REFERENCE: For notice of proposed rule making with respect to miscellaneous equipment as defined in § 18.2 (d) see Federal Register Documents 47-4966 and 47-4968, Title 47, Part 18, *supra*.

NOTICES

DEPARTMENT OF JUSTICE

Office of Alien Property

AUTHORITY: 40 Stat. 411, 55 Stat. 839, Pub. Laws 322, 671, 79th Cong., 60 Stat. 50, 925; 50 U. S. C. and Supp. App. 1, 616; E. O. 9193, July 6, 1942, 3 CFR, Cum. Supp., E. O. 9567, June 8, 1945, 3 CFR, 1945 Supp., E. O. 9788, Oct. 14, 1946, 11 F. R. 11981.

[Vesting Order 8936]

KATIE LOHRER

In re: Trusts under the will of Katie Lohrer, also known as Catherine Lohrer and Katherine Lohrer, deceased. File D-28-10049; E. T. sec. 14263.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Joseph Gries, whose last known address is Germany, is a resident of Germany and a national of a designated enemy country (Germany)

2. That all right, title, interest and claim of any kind or character whatsoever of the person named in subparagraph 1 hereof in and to the Trusts created under the will of Katie Lohrer (also known as Catherine Lohrer and Katherine Lohrer) deceased, is property payable or deliverable to, or claimed by, the aforesaid national of a designated enemy country (Germany)

3. That such property is in the process of administration by St. Louis Union Trust Company, Mrs. Katherine Dickinson and Mrs. Lillian Kniest, Administrator and Administratrices, cum testamento annexo, acting under the judicial supervision of the Probate Court of the City of St. Louis, Missouri, File No. 98715; and it is hereby determined:

4. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on May 14, 1947.

For the Attorney General.

[SEAL] DONALD C. COOK, *Director.*

[F. R. Doc. 47-4949; Filed, May 26, 1947; 8:57 a. m.]

[Vesting Order 8937]

EMIL LOHRISCH

In re: Estate of Emil Lohrisch, deceased. D-28-10107; E. T. sec. 14380.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Friedrich Lohrisch, Paul Lohrisch, Karl Lohrisch, Ida Lindner nee Lohrisch, Marie Borchard nee Lohrisch, Max Lohrisch, Gustav Lohrisch and Otto Lohrisch, whose last known address is Germany, are residents of Germany and nationals of a designated enemy country (Germany)

2. That the sum of $9,432.40 was paid to the Attorney General of the United States by the State Bank and Trust Company, Executor of the Estate of Emil Lohrisch, deceased;

3. That the said sum of $9,432.40 is presently in the possession of the Attorney General of the United States and was property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which was evidence of ownership or control by, the aforesaid nationals of a designated enemy country (Germany)

and it is hereby determined:

4. That to the extent that the persons named in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

This vesting order is issued nunc pro tunc to confirm the vesting of the said property in the Attorney General of the United States by acceptance thereof on February 19, 1947, pursuant to the Trading with the Enemy Act, as amended.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on May 14, 1947.

For the Attorney General.

[SEAL] DONALD C. COOK, *Director.*

[F. R. Doc. 47-4950; Filed, May 26, 1947; 8:57 a. m.]

[Vesting Order 8938]

GEORGE LUTZ

In re: Estate of George Lutz, deceased. D-28-8616; E. T. sec. 10288.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Frieda Rueger and Johanna Honing alias Hannah Henning, whose last known address is Germany, are residents of Germany and nationals of a designated enemy country (Germany)

2. That the sum of $2,381.42 was paid to the Alien Property Custodian by Otto Lutz, Administrator With Will Annexed of the Estate of George Lutz, deceased;

3. That the said sum of $2,381.42 is presently in the possession of the Attorney General of the United States and was property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which was evidence of ownership or control by, the aforesaid nationals of a designated enemy country (Germany).

and it is hereby determined:

4. That to the extent that the persons named in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

This vesting order is issued nunc pro tunc to confirm the vesting of said property in the Alien Property Custodian by acceptance thereof on December 17, 1945, pursuant to the Trading with the Enemy Act, as amended.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on May 14, 1947.

For the Attorney General.

[SEAL] DONALD C. COOK, *Director.*

[F. R. Doc. 47-4951; Filed, May 26, 1947; 8:57 a. m.]

[Vesting Order 8939]

LEON MAGIDMAN

In re: Estate of Leon Magidman, deceased. File No. D-65-160; E. T. Sec. 9045.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Jacob (Yankel) Magidman whose last known address is Rumania, is a resident of Rumania and a national of a designated enemy country (Rumania)

2. That all right, title, interest and claim of any kind or character whatsoever of the person identified in subparagraph 1 hereof, in and to the estate of Leon Magidman, deceased, is property payable or deliverable to, or claimed by, the aforesaid national of a designated enemy country (Rumania)

3. That such property is in the process of administration by Arthur Knaster, as administrator, acting under the judicial supervision of the Monmouth County Orphans' Court, Freehold, New Jersey;

and it is hereby determined:

4. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Rumania).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold, or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on May 14, 1947.

For the Attorney General.

[SEAL] DONALD C. COOK, *Director.*

[F. R. Doc. 47-4952; Filed, May 26, 1947; 8:57 a. m.]

[Vesting Order 8945]

FERDINAND WILHELM SCHNEIDER

In re: Estate of Ferdinand Wilhelm Schneider, deceased. File No. D-28-11415; E. T. sec. 15654.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Karl Schneider and Anton Schneider, whose last known address is Germany, are residents of Germany and nationals of a designated enemy country (Germany),

2. That all right, title, interest and claim of any kind or character whatsoever of the persons named in subparagraph 1 hereof in and to the Estate of Ferdinand Wilhelm Schneider, deceased, is property payable or deliverable to, or claimed by, the aforesaid nationals of a designated enemy country (Germany)

3. That such property is in the process of administration by Caroline Litschauer Fetish, as Executrix, acting under the judicial supervision of the Bergen County Orphans' Court, Hackensack, New Jersey;

and it is hereby determined:

4. That to the extent that the persons named in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on May 14, 1947.

For the Attorney General.

[SEAL] DONALD C. COOK,
Director

[F. R. Doc. 47-4969; Filed, May 26, 1947; 8:57 a. m.]

[Vesting Order 8946]

GABRIEL SCHWANER

In re: Estate of Gabriel Schwaner, deceased. File No. D-28-8716; E. T. sec. 10563.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Augusta Muth, whose last known address is Germany, is a resident of Germany and a national of a designated enemy country (Germany)

2. That all right, title, interest and claim of any kind or character whatsoever of the person named in subparagraph 1 hereof in and to the estate of Gabriel Schwaner, deceased, is property payable or deliverable to, or claimed by, the aforesaid national of a designated enemy country (Germany),

3. That such property is in the process of administration by Henry Schwaner, as administrator c. t. a. of the estate of Gabriel Schwaner, deceased, acting under the judicial supervision of the Court of Probate, District of Fairfield, State of Connecticut;

and it is hereby determined:

4. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on May 14, 1947.

For the Attorney General.

[SEAL] DONALD C. COOK,
Director.

[F. R. Doc. 47-4970; Filed, May 26, 1947; 8:57 a. m.]

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

SAN LUIS VALLEY PROJECT, COLORADO

FIRST FORM RECLAMATION WITHDRAWAL

JANUARY 30, 1947.

The SECRETARY OF THE INTERIOR.

SIR: In accordance with the authority vested in you by the act of June 28, 1934 (48 Stat. 1269), as amended, it is recommended that the following described lands be withdrawn from public entry under the first form of withdrawal, as provided in section 3 of the act of June 17, 1902 (32 Stat. 388) and that Departmental Order of November 25, 1941, establishing Colorado Grazing District No. 8, be amended to permit the withdrawal effected by this order.

SAN LUIS VALLEY PROJECT

NEW MEXICO PRINCIPAL MERIDAN, COLORADO

T. 40 N., R. 3 E.,
Sec. 25, NE¼NW¼,
Sec. 26, SE¼NE¼, W½W½, NE¼SE¼,
Sec. 27, NE¼, E½NW¼, NE¼SW¼, SE¼.
The above areas aggregate 720 acres.

Respectfully,

WILLIAM E. WARNE,
Acting Commissioner

I concur: February 12, 1947.

FRED W JOHNSON,
Director Bureau of Land Management.

The foregoing recommendation is hereby approved, as recommended, and the Director, Bureau of Land Management, will cause the records of his office and the local land office to be noted accordingly.

C. GIRARD DAVIDSON,
Assistant Secretary.

MAY 16, 1947.

[F. R. Doc. 47-4945; Filed, May 26, 1947; 8:59 a. m.]

CIVIL AERONAUTICS BOARD

[Docket No. 2931]

AVIATION ENTERPRISES, INC.

NOTICE OF HEARING

In the matter of the petition of Aviation Enterprises, Inc., under section 406 of the Civil Aeronautics Act of 1938, as amended, for an order temporarily fixing and determining the fair and reasonable rates of compensation for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith over its route No. 82.

Notice is hereby given that hearing in the above-entitled proceeding is assigned to be held on May 28, 1947, at 10:00 a. m. (eastern daylight saving time), in Room 1302, Temporary "T" Building, Constitution Avenue between 12th and 14th Streets, NW., Washington, D. C., before Examiner Richard A. Walsh.

Dated at Washington, D. C., May 21, 1947.

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN,
Secretary.

[F. R. Doc. 47-4946; Filed, May 26, 1947; 8:59 a. m.]

FEDERAL POWER COMMISSION

[Docket No. G-741]

KANSAS POWER AND LIGHT CO.

NOTICE OF FINDINGS AND ORDER ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AND AUTHORIZING AND APPROVING ABANDONMENT OF FACILITIES

MAY 22, 1947.

Notice is hereby given that, on May 21, 1947, the Federal Power Commission issued its findings and order entered May 20, 1947, issuing certificate of public convenience and necessity and authorizing and approving abandonment of facilities in the above-designated matter.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 47-4961; Filed, May 26, 1947; 9:00 a. m.]

[Docket No. G-777]

NORTHERN NATURAL GAS CO.

NOTICE OF FINDINGS AND ORDER ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AND AUTHORIZING AND APPROVING ABANDONMENT OF FACILITIES

MAY 22, 1947.

Notice is hereby given that, on May 21, 1947, the Federal Power Commission issued its findings and order entered May 20, 1947, issuing certificate of public convenience and necessity and authorizing and approving abandonment of facilities in the above-designated matter.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 47-4962; Filed, May 26, 1947; 9:00 a. m.]

[Docket No. G-847]

TENNESSEE NATURAL GAS LINES, INC.

NOTICE OF ORDER DISMISSING APPLICATION

MAY 22, 1947.

Notice is hereby given that, on May 21, 1947, the Federal Power Commission issued its order entered May 20, 1947, dismissing application, in the above-designated matter.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 47-4964; Filed, May 26, 1947; 9:00 a. m.]

[Docket No. G-868]

CANADIAN RIVER GAS CO.

NOTICE OF ORDER APPROVING TRANSFER OF AMOUNTS FROM DEPRECIATION, AMORTIZATION AND DEPLETION RESERVES TO EARNED SURPLUS

MAY 22, 1947.

Notice is hereby given that, on May 21, 1947, the Federal Power Commission issued its order entered May 20, 1947, approving transfer of amounts from depreciation, amortization and depletion reserves to earned surplus in the above-designated matter.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 47-4963; Filed, May 26, 1947; 9:00 a. m.]

[Docket No. G-899]

R. J. AND D. E. WHELAN

NOTICE OF FINDING UPON APPLICATION FOR STATUS DETERMINATION

MAY 22, 1947.

Notice is hereby given that, on May 21, 1947, the Federal Power Commission issued its finding upon application for status determination entered May 20, 1947, in the above-designated matter.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 47-4965; Filed, May 26, 1947; 9:00 a. m.]

FEDERAL TRADE COMMISSION

[Docket No. 5421]

CROWN ZELLERBACH CORP. ET AL.

ORDER APPOINTING TRIAL EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 16th day of May A. D. 1947.

In the matter of Crown Zellerbach Corporation, a corporation, Zellerbach Paper Company, a corporation, and General Paper Company, a corporation.

This matter being at issue and ready for the taking of testimony and the receipt of evidence, and pursuant to authority vested in the Federal Trade Commission,

It is ordered, That Everett F. Haycraft, a Trial Examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony and the receipt of evidence begin on Tuesday, July 1, 1947, at ten o'clock in the forenoon of that day (Pacific standard time) in Room 449, Post Office Building, San Francisco, California.

Upon the completion of the taking of testimony and the receipt of evidence in support of the allegations of the complaint, the Trial Examiner is directed to proceed immediately to take testimony and receive evidence on behalf of the respondents. The Trial Examiner will then close the taking of testimony and evidence and, after all intervening procedure as required by law, will close the case and make and serve on the parties at issue a recommended decision which shall include recommended findings and conclusions, as well as the reasons or basis therefor, upon all the material issues of fact, law, or discretion presented on the record, and an appropriate recommended order; all of which shall become a part of the record in said proceeding.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 47-4960; Filed, May 26, 1947; 9:00 a. m.]

INTERSTATE COMMERCE COMMISSION

[S. O. 396, Special Permit 190]

RECONSIGNMENT OF POTATOES AT PITTSBURGH, PA.

Pursuant to the authority vested in me by paragraph (f) of the first ordering paragraph of Service Order 396 (10 F. R. 15008), permission is granted for any common carrier by railroad subject to the Interstate Commerce Act:

To disregard entirely the provisions of paragraph (j) of Service Order No. 396 insofar as it applies to the reconsignment at Pittsburgh, Pa., May 20 or 21, 1947, by S. Nightingale & Co., of car WFEX 67610, potatoes, now on the Pennsylvania RR., to Pittsburgh Cash Produce Co., McKeesport, Pa., (P. RR.).

The waybill shall show reference to this special permit.

A copy of this special permit has been served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and notice of this permit shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D. C., this 20th day of May 1947.

V. C. CLINGER,
Director,
Bureau of Service.

[F. R. Doc. 47-4956; Filed, May 26, 1947; 8:59 a. m.]

[S. O. 396, Special Permit 191]

RECONSIGNMENT OF POTATOES AT INDIANAPOLIS, IND.

Pursuant to the authority vested in me by paragraph (f) of the first ordering paragraph of Service Order No. 396 (10 F. R. 15008), permission is granted for any common carrier by railroad subject to the Interstate Commerce Act:

To disregard entirely the provisions of Service Order No. 396 insofar as it applies to the reconsignment at Indianapolis, Ind., May 21, 1947, by National Produce Co., of car PFE 51364, potatoes, now on the New York Central R. R., to Max Loefsky, Pittsburgh, Pa. (NYC-PRR).

The waybill shall show reference to this special permit.

A copy of this special permit has been served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and notice of this permit shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D. C., this 21st day of May 1947.

V. C. CLINGER,
Director,
Bureau of Service.

[F. R. Doc. 47-4957; Filed, May 26, 1947; 8:59 a. m.]

[Rev. S. O. 620, Special Permit 5]

LIGHTWEIGHING OF IMPORTED LIQUID LATEX AT BOSTON, MASS.

Pursuant to the authority vested in me by paragraph (f) of the first ordering paragraph of Revised Service Order No. 620 (12 F. R. 641) permission is granted for any common carrier by railroad subject to the Interstate Commerce Act:

To disregard the provisions of Revised Service Order No. 620 insofar as it applies to the lightweighing at its Yard No. 5, at Boston, Massachusetts, by the New York, New Haven and Hartford Railroad Company, of railroad tank cars to be loaded with imported liquid latex by the Charles T. Wilson Company, Inc., at the Boston Army Base, 666 Summer Street, Boston, Massachusetts, provided the said company surrenders a written order to the carrier for such lightweighing on which it certifies that the cars ordered to be lightweighed will be loaded only with imported liquid latex.

The waybill shall show reference to this special permit.

A copy of this special permit has been served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and notice of this permit shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it

with the Director, Division of the Federal Register.

Issued at Washington, D. C., this 21st day of May 1947.

V C. CLINGER,
Director,
Bureau of Service.

[F. R. Doc. 47-4958; Filed, May 26, 1947; 8:59 a. m.]

OFFICE OF HOUSING EXPEDITER

[C-24]

SACHS, INC.

CONSENT ORDER

Sachs, Inc., 27 West High Street, Springfield, Ohio, is an Ohio corporation engaged in the business of retailing men's furnishings. Herman Sachs is the President of said corporation. Sachs, Inc. is charged by the Office of the Housing Expediter with a violation of Veterans' Housing Program Order 1 in that on or about February 19, 1947, without authorization of the Civilian Production Administration or the Office of the Housing Expediter, it began construction and thereafter carried on and participated in construction in connection with the remodeling of a building used as a clothing store located at 25-27-29 West High Street, Springfield, Ohio, at an estimated cost in excess of $1,000.

Sachs, Inc. admits the violation as charged but denies that it was wilful and has consented to the issuance of this order.

Wherefore, upon the agreement and consent of Sachs, Inc., the Regional Compliance Director and the Regional Compliance Attorney, and upon the approval of the Compliance Commissioner, *It is hereby ordered,* That:

(a) Neither Sachs, Inc., its successors and assigns, nor any other person shall do any further construction in connection with the remodeling of the building used as a clothing store located at 25-27-29 West High Street, Springfield, Ohio, including the completing or further altering of said structure, unless hereafter authorized in writing by the Office of the Housing Expediter.

(b) Sachs, Inc. shall refer to this order in any application or appeal which it may file with the Office of the Housing Expediter for priorities assistance or for authority to carry on construction.

(c) Nothing contained in this order shall be deemed to relieve Sachs, Inc., its successors and assigns, from any restriction, prohibition or provision contained in any other order or regulation of the Office of the Housing Expediter, except insofar as the same may be inconsistent with the provisions hereof.

Issued this 23d day of May 1947.

OFFICE OF THE HOUSING EXPEDITER,
By JAMES V. SARCONE,
Authorizing Officer

[F. R. Doc. 47-5006; Filed, May 23, 1947; 12:16 p. m.]

[C-30]

BEATRICE FOODS CO.

CONSENT ORDER

Beatrice Foods Company, a corporation, is located at 841 South High Street, Akron, Ohio. Walter L. Dilger is Secretary of said corporation. Beatrice Foods Company is charged by the Office of the Housing Expediter with violating Veterans' Housing Program Order 1 in that on or about October 16, 1946, it began construction and thereafter carried on and participated in construction in connection with the remodeling, altering and repairing of a building to be used as a warehouse for creamery products, located at 841 South High Street, Akron, Ohio, at a cost in excess of $1,000, without authorization of the Civilian Production Administration or the Office of the Housing Expediter.

The Beatrice Foods Company admits the violation as charged but denies that it was wilful and has consented to the issuance of this order.

Wherefore, upon the agreement and consent of the Beatrice Foods Company, the Regional Compliance Director and the Regional Compliance Attorney, and upon the approval of the Compliance Commissioner, *It is hereby ordered,* That:

(a) Neither Beatrice Foods Company, its successors and assigns, nor any other person shall do any further construction on the premises at 841 South High Street, Akron, Ohio, including completing or further altering or remodeling or repairing the building used as a warehouse for creamery products, located on said premises unless hereafter specifically authorized in writing by the Office of the Housing Expediter.

(b) Beatrice Foods Company shall refer to this order in any application or appeal which it may file with the Office of the Housing Expediter for priorities assistance or for authorization to carry on construction.

(c) Nothing contained in this order shall be deemed to relieve the Beatrice Foods Company, its successors and assigns, from any restriction, prohibition or provision contained in any other order or regulation of the Office of the Housing Expediter, except insofar as the same may be inconsistent with the provisions hereof.

Issued this 23d day of May 1947.

OFFICE OF THE HOUSING EXPEDITER,
By JAMES V. SARCONE,
Authorizing Officer

[F. R. Doc. 47-5007; Filed, May 23, 1947; 12:16 p. m.]

[C-34]

DANIEL CARVALHO AND MANUEL DUTRA

CONSENT ORDER

Daniel Carvalho is the owner of a building located at 49 Columbia Street, Fall River, Massachusetts, and Manuel Dutra of Sprague Street, Portsmouth, Rhode Island, is the contractor engaged by Daniel Carvalho to perform work on the premises at 49 Columbia Street, Fall River, Massachusetts. Daniel Carvalho and Manuel Dutra are charged by the Office of the Housing Expediter with having begun alterations and an addition to the above described building for the purpose of enlarging the building and making increased space for two stores, without authorization from the Civilian Production Administration or the Office of the Housing Expediter. Most of the work accomplished to date consists of demolition and excavation and only a small part is construction within the meaning of VHP-1. The construction done was not permitted under any exemption provided for in the Order and, therefore, constituted a violation of Veterans' Housing Program Order 1.

Daniel Carvalho and Manuel Dutra admit the violation as charged but state that the violation was due to a misunderstanding and deny that it was willful.

Wherefore, upon the agreement and consent of Daniel Carvalho and Manuel Dutra, the Regional Compliance Director, and the Regional Compliance Attorney, and upon the approval of the Compliance Commissioner, *It is hereby ordered,* That:

(a) The temporary suspension order issued by the Civilian Production Administration by telegram dated March 6, 1947, is hereby revoked.

(b) Neither Daniel Carvalho nor Manuel Dutra, their successors or assigns, nor any other person shall do any further construction on the alterations or additions to the building at 49 Columbia Street, Fall River, Massachusetts, including completing or altering the structure in any way, unless hereafter specifically authorized in writing by the Office of the Housing Expediter.

(c) Daniel Carvalho and Manuel Dutra shall refer to this order in any application or appeal which they may file with the Office of the Housing Expediter or any other federal agency to do any further construction on this project.

(d) Nothing contained in this order shall be deemed to relieve Daniel Carvalho and Manuel Dutra, their successors and assigns, from any restriction, prohibition or provision contained in any other order or regulation of the Office of the Housing Expediter, except insofar as the same may be inconsistent with the provisions hereof.

Issued this 23d day of May 1947.

OFFICE OF THE HOUSING EXPEDITER,
By JAMES V. SARCONE,
Authorizing Officer

[F. R. Doc. 47-5008; Filed, May 23, 1947; 12:16 p. m.]